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Presidential Documents

Title 3—

The President

Proclamation 5682 of July 20, 1987

National Czech American Heritage Week, 1987

By the President of the United States of America

A Proclamation

For more than three and one-half centuries, Czechs and Czech Americans, through talent, industriousness, and energy, have been compiling a proud record of achievement in our country. All Americans are glad to join our fellow citizens of Czech descent in celebrating this precious and living heritage, as well as the extensive ties between our peoples here and in Europe.

Czechs have long sought liberty and opportunity in the United States, and they have distinguished themselves here in every field of endeavor—in science, religion, literature, the professions, business, labor, the armed forces, the arts, government, sports, and countless other fields. Among the first North Americans ever canonized was a Czech American, St. John Nepomucene Neumann, a missionary and later a bishop of Philadelphia in the 19th century. In that century hundreds of thousands of Czechs came to America, seeking freedom and economic opportunity. In this century as well, Czechs have sought freedom in this country from Nazi and Soviet oppression—most recently from the brutal Soviet-led invasion of Czechoslovakia in 1968.

Connections of Czechs and America flow in both directions. The United States is inextricably linked to the founding of Czechoslovakia. President Woodrow Wilson strongly advocated independence for Czechs and others. The Czechoslovak Declaration of Independence was drafted in Washington, D.C., and the Constitution of the first Czechoslovak Republic was modelled on the United States Constitution, whose bicentennial we observe this year. The great statesman Thomas Masaryk, who married an American, cited the profound influence of the writings of Thomas Jefferson and other American democrats on his own philosophy.

To recognize the contributions of Czech Americans to our country and to encourage the American people to learn more about this legacy, the Congress, by Public Law 100–69, has designated the period beginning July 27, 1987, and ending on August 2, 1987, as "National Czech American Heritage Week" and has authorized and requested the President to issue a proclamation in its observance.

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, do hereby proclaim the period beginning July 27, 1987, and ending August 2, 1987, as National Czech American Heritage Week. I call upon all Americans to observe this week with appropriate ceremonies and activities.

IN WITNESS WHEREOF, I have hereunto set my hand this twentieth day of July, in the year of our Lord nineteen hundred and eighty-seven, and of the Independence of the United States of America the two hundred and twelfth.

Ronald Reagan

[FR Doc. 87–16765
Filed 7–20–87; 4:18 pm]
Billing code 3195–01–M

Rules and Regulations

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FEDERAL RETIREMENT THRIFT INVESTMENT BOARD

5 CFR Part 1605

Error Correction Regulations

AGENCY: Federal Retirement Thrift Investment Board.

ACTION: Amendment to interim rule with request for comments.

SUMMARY: On May 13, 1987, the Board published interim regulations in 5 CFR Part 1605 governing the correction of errors which occur during the administration of the Thrift Savings Plan. Those regulations did not address adjustment to Thrift Savings Plan contributions which must be made as a consequence of a retroactive adjustment to an employee's pay. For this reason, the Board is now prescribing regulations which provide procedures for agencies to follow when they adjust an employee's salary because of a back pay award pursuant to 5 U.S.C. 5596 or because of a retroactive adjustment in pay. These regulations are effective retroactive to April 1, 1987, the statutory commencement date of the Thrift Savings Plan.

DATES: Amendments effective April 1, 1987, comments must be received by September 21, 1987.

ADDRESS: Comments may be sent to: John J. O'Meara, Federal Retirement Thrift Investment Board, P.O. Box 18899, Washington, DC 20036.

FOR FURTHER INFORMATION CONTACT: John J. O'Meara, (202) 653–2573.

SUPPLEMENTARY INFORMATION: The Federal Retirement Thrift Investment Board (the Board) was established by Pub. L. 99–335 (June 6, 1986), the Federal Employees' Retirement System Act of 1986 (codified principally at 5 U.S.C. 8401 through 8479), as amended by Pub. L. 99–509, the Omnibus Budget Reconciliation Act of 1986, and Pub. L. 99–556, the Federal Employees' Retirement System Technical Corrections Act of 1986, to administer the Thrift Savings Plan for Federal employees. Regulations of the Board are contained in Title 5, CFR, Chapter VI, Parts 1600 through 1699. The Executive Director of the Board is adding §§1605.9 and 1605.10 to Part 1605.

Regulatory Flexibility Act

I certify that these regulations will not have a significant economic impact on a substantial number of small entities. They will affect only internal government procedures for correcting errors involving employee participation in the Thrift Savings Plan.

Paperwork Reduction Act

I certify that these regulations do not require additional reporting under the criteria of the Paperwork Reduction Act of 1980.

Waiver of Notice of Proposed Rulemaking and 30-day Delay of Effective Date

Pursuant to 5 U.S.C. 553(b)(B) and (d)(3), I find that good cause exists for waiving the general notice of proposed rulemaking and for making these regulations effective in less than 30 days. This amendment is being published as an interim regulation because the statutory commencement of the Thrift Savings Plan was April 1, 1987, and it is necessary for the Board to have procedures in place in order to ensure that situations involving retroactive pay adjustments are addressed in a uniform manner by the applicable agencies.

List of Subjects in 5 CFR Part 1605

Administrative practice and procedure, Employee benefit plans, Government employees, Pensions, Retirement.

Federal Retirement Thrift Investment Board.

Francis X. Cavanaugh,

Executive Director.

Accordingly, 5 CFR Part 1605 is amended as follows:

PART 1605—CORRECTION OF ADMINISTRATIVE ERRORS

1. The authority citation for Part 1605 continues to read as follows:

Authority: 5 U.S.C. 8351 and 8474.

2. Sections 1605.9 and 1605.10 are added to read as follows.:

§ 1605.9 Adjustment for back pay award.

(a) *General.* The purpose of this section is to make an employee receiving a back pay award whole with respect to participation in the Thrift Savings Plan in connection with employee contributions, Government contributions, and elections which he or she would have otherwise been able to make had the unwarranted or unjustified personnel action not occurred.

(b) *Continuous service.* Employees who receive a retroactive pay adjustment pursuant to 5 U.S.C. 5596 for a period of time when they were not separated from Government service, will only receive an adjustment to applicable Thrift Savings Plan contributions if they had designated a percentage of basic pay as a contribution or if they had designated a dollar amount contribution which had been reduced (because of the percentage limitations on employee contributions contained in 5 U.S.C 8351 and 8432) as a consequence of the unwarranted or unjustified personnel action. In those cases where an adjustment in required, the agency shall compute and forward to the Recordkeeper such additional amounts attributable to the employee contribution and, if the employee is covered by the Federal Employees' Retirement System, the one percent Government basic contribution and applicable Government matching contributions.

(c) *Erroneous separation.* If an employee receives a back pay adjustment pursuant to 5 U.S.C. 5596 for a period of time when he or she was erroneously separated from Government service, the agency shall—

(1) Give the employee the opportunity to make any elections, including termination, in the same manner the empoyee could have chosen had the erroneous separation not occured;

(2) Compute and forward to the Recordkeeper such amounts of employee contributions and, if the employee was covered by the Federal Empoyees' Retirement System, the one percent Government basic contribution and applicable Government matching contributions which are consistent with the decisions the employee made

pursuant to paragraph (c)(1) of this section; and

(3) Make routine contributions for future pay periods in accordance with the employee's current Thrift Savings Plan election form.

(d) In making adjustments in accordance with paragraphs (b) and (c) of this section, agencies shall ensure that the employee's contribution does not exceed the ceiling on employee contributions for any calendar year found in 26 U.S.C. 402(g)(1). For purposes of making this calculation, employee contributions shall be credited to the calendar year in which they are made.

§ 1605.10 Other retroactive pay adjustments.

(a) *Actions eligible for correction.* Whenever an agency is required to make a retroactive pay adjustment, other than a pay adjustment covered by § 1605.9 of this part, the agency shall also make an adjustment to the employee's Thrift Savings Plan contributions in the manner prescribed in paragraph (b) of this section.

(b) Correction procedure. In the event that there is a retroactive upward pay adjustment pursuant to paragraph (a) of this section, the following procedure shall apply:

(1) The agency shall—

(i) Compute the adjustment to the one percent government basic contribution for all employees subject to the Federal Employee's Retirement System who were eligible to participate in the Thrift Savings Plan during all or part of the affected period;

(ii) Compute additional employee contributions for employees participating in the Thrift Savings Plan who elected to contribute a percentge of basic pay during all or part of the affected period;

(iii) Compute additional government matching contributions for employees subject to the Federal Employees' Retirement System who elected to contribute a percentge of basic pay during all or part of the affected period; and

(iv) Forward the amounts computed under paragraphs (b)(1), (i) (ii), and (iii) of this section to the Recordkeeper.

(2) The Recordkeeper shall—

(i) Credit the retroactive adjustment amounts to the appropriate active accounts;

(ii) With respect to former employees who do not have active Thrift Savings Plan accounts, allocate these retroactive amounts to the Government Securities Investment Fund for investment by the Board;

(iii) Pay the retroactive amounts and earnings attributable to their investment to these former employees, and provide appropriate documentation, at the following monthly scheduled payment of withdrawals from the Thrift Savings Plan;

(iv) Forfeit immediately to the undistributed earnings account of the Government Securities Investment Fund any payments returned as undeliverable and pay such amounts and attributable earnings to former employees who later file an appropriate and timely claim;

(v) Not pay retroactive earnings that are based on a retroactive pay adjustment to any former employe or post such earnings to the account of any current employee;

(iv) Not make any payments to former employees which are less than one dollar.

(c) In making adjustments in accordance with paragraph (b) of this section, agencies shall ensure that the employee's contribution does not exceed the ceiling on employee contributions for any calendar year found in 26 U.S.C. 402(g)(1). For purposes of making this calculation, employee contributions shall be credited to the calendar year in which they are made.

[FR Doc. 87-16610 Filed 7-21-87; 8:45 am]
BILLING CODE 6760-01-M

DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Part 301

[Docket No. 87-080]

Mediterranean Fruit Fly; Removal of Regulations

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Interim rule.

SUMMARY: We are removing the Mediterranean Fruit Fly regulations that designated as quarantined areas portions of Dade County in Florida and imposed restrictions on the interstate movement of regulated articles from the quarantined areas. The regulations were established to prevent the artificial spread of the Mediterranean fruit fly into noninfested areas of the United States. We have determined that the Mediterranean Fruit Fly has been eradicated from these areas in Dade County, Florida, and the regulations are no longer necessary.

DATES: Interim rule effective July 17, 1987. Consideration will be given only to comments postmarked or received on or before September 21, 1987.

ADDRESS: Send written comments to Steven B. Farbman, Assistant Director, Regulatory Coordination, APHIS, USDA, Room 728, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782. Please state that your comments refer to Docket Number 87-080. Comments received may be inspected at Room 728 of the Federal Building between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays.

FOR FURTHER INFORMATON CONTACT: Milton C. Holmes, Acting Assistant Director, Survey and Emergency Response Staff, PPQ, APHIS, USDA, Room 611, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, 301-436-6365.

SUPPLEMENTARY INFORMATION:

Background

In an interim rule published in the **Federal Register** on April 1, 1987 (52 FR 10357-10364, Docket No. 87-037), and effective on March 26, we amended the "Domestic Quarantine Notices" by adding a new Subpart 301.78 to quarantine portions of Dade County in Florida because of the Mediterranean fruit fly, *Ceratitis capitata* (Wiedemann), and restrict the interstate movement of regulated articles from the quarantined portions of Dade County. The interim rule of April 1 designated a large number of fruits, nuts, vegetables and berries, and soil as regulated articles.

Based on trapping surveys conducted by inspectors of the United States Department of Agriculture and state agencies of Florida, we have determined that the Mediterranean fruit fly has been eradicated from the infested areas in Dade County. The last finding of Mediterranean fruit fly was made on March 5, 1987. Since then, no evidence of an infestation has been found. We have determined that sufficient time has passed without finding additional fruit flies or other evidence of an infestation to conclude that an infestation no longer exists in Dade County. Further, Mediterranean fruit fly does not exist any place in the conterminous United States.

Under these circumstances there is no longer a basis for imposing restrictions due to Mediterranean fruit fly on the movement of articles from any area in Florida or elsewhere in the

conterminous United States. Therefore, in order to relieve unnecessary restrictions on the interstate movement of certain articles, we are amending 7 CFR Part 301 by removing Subpart—*Mediterranean Fruit Fly* from the Domestic Quarantine Notices.

Emergency Action

William F. Helms, Deputy Administrator of the Animal and Plant Health Inspection Service for Plant Protection and Quarantine, has determined that an emergency situation exists, which warrants publication of this interim rule without prior opportunity for public comment to remove unnecessary restrictions imposed on the interstate movement of certain articles. For this reason, we find upon good cause that, pursuant to the administrative procedure provisions in 5 U.S.C. 553, prior notice and other public procedures with respect to this interim rule are impracticable and contrary to the public interest; and good cause is found for making this interim rule effective upon signature. We are requiring that comments concerning this interim rule be submitted within 60 days of its publication. We will discuss comments received and any amendments required in a final rule that will be published in the **Federal Register**.

Executive Order 12291 and Regulatory Flexibility Act

We are issuing this rule in conformance with Executive Order 12291, and we have determined that it is not a "major rule". Based on information compiled by the Department, we have determined that this rule will have an effect on the economy of less than $100 million; will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; and will not cause a significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

For this action, the Office of Management and Budget has waived its review process required by Executive Order 12291.

This amendment removes restrictions on the interstate movement of regulated articles from a portion of Dade County, Florida. There is very little commercial activity affected by this rule that will occur in the previously quarantined area.

Specifically, the quarantined area was comprised of private residences and small shops. The small entities in the previously quarantined area that may be affected by this regulation consist of approximately 70 nurseries, 40 retail stores, 90 street vendors and open fruit stands, and 20 premises with orchards and vegetable plots (ranging in size from ¼ acre to ten acres). Although these are small entities, they sell regulated articles primarily for local intrastate, not interstate, movement. Also, many of the retail shops and nurseries sell other items in addition to the regulated articles so that the effect, if any, that this regulation will have on these entities appears to be minimal. Further, the number of affected entities mentioned above is small compared with the thousands of small entities that move these articles interstate from other States.

Under these circumstances, the Administrator of the Animal and Plant Health Inspection Service has determined that this action will not have a significant economic impact on a substantial number of small entities.

Executive Order 12372

This program/activity is listed in the Catalog of Federal Domestic Assistance under No. 10.025 and is subject to the provisions of Executive Order 12372, which requires intergovernmental consultation with state and local officials. (See 7 CFR Part 3015, Subpart V).

List of Subjects in 7 CFR Part 301

Agricultural commodities, Mediterranean fruit fly, Plant diseases, Plant pests, Plants (Agriculture), Quarantine, Transportation.

PART 301—DOMESTIC QUARANTINE NOTICES

1. The authority citation for Part 301 continues to read as follows:

Authority: 7 U.S.C. 150dd, 150ee, 150ff; 161, 162, and 164–167; 7 CFR 2.17, 2.51, and 371.2(c).

§§ 301.78–301.78–10 [Removed]

2. Subpart *Mediterranean Fruit Fly*, consisting of §§ 301.78 through 301.78–10, is removed.

Done in Washington, DC, this 17th day of July, 1987.

D. Husnik,

Acting Deputy Administrator, Plant Protection and Quarantine, Animal and Plant Health Inspection Service.

[FR Doc. 87–16663 Filed 7–21–87; 8:45 am]

BILLING CODE 3410–34–M

7 CFR Part 301

[Docket No. 87–095]

Oriental Fruit Fly

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Interim rule and request for comments.

SUMMARY: We are amending the "Domestic Quarantine Notices" by adding a new Subpart 301.93, captioned "Oriental Fruit Fly." These regulations guarantine portions of Los Angeles and Orange Counties in California because of the Oriental fruit fly, and restrict the interstate movement of regulated articles from the quarantined areas. This action is necessary on an emergency basis to prevent the artificial spread of the Oriental fruit fly into noninfested areas of the United States.

DATES: Interim rule effective July 17, 1987. Consideration will be given only to comments postmarked or received on or before September 21, 1987. The incorporation of certain publications in the regulations is approved by the Director of the Federal Register July 22, 1987.

ADDRESSES: Send written comments to Steven B. Farbman, Assistant Director, Regulatory Coordination, APHIS, USDA, Room 728, Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782. Please state that your comments refer to Docket Number 87–095. Comments received may be inspected at Room 728 of the Federal Building between 8 a.m. and 4:30 p.m., Monday through Friday, except holidays.

FOR FURTHER INFORMATION CONTACT: Milton C. Holmes, Acting Assistant Director, Survey and Emergency Response Staff, Plant Protection and Quarantine, Animal and Plant Health Inspection Service, U.S. Department of Agriculture, Room 611 Federal Building, 6505 Belcrest Road, Hyattsville, MD 20782, 301–436–6365.

SUPPLEMENTARY INFORMATION:

Background

We are amending the "Domestic Quarantine Notices" in 7 CFR Part 301 by adding "Oriental Fruit Fly" regulations (referred to below as the regulations). These regulations quarantine portions of Los Angeles and Orange Counties in California because of the Oriental fruit fly, and restrict the interstate movement of regulated articles from the quarantined areas.

The Oriental fruit fly, *Dacus dorsalis* (Hendel), is a very destructive pest of numerous fruits (especially citrus fruits),

nuts, vegetables, and berries. This pest can cause serious economic losses. Heavy infestations can result in complete loss of these crops. Its short life cylce permits the rapid development of serious outbreaks.

Recent trapping surveys in Hawaiian Gardens and Garden Grove, California have established that portions of Los Angeles and Orange Counties in California are infested with the Oriental fruit fly.

Officials of the United States Department of Agriculture (USDA) and officials of state and county agencies in California have begun an intensive Oriental fruit fly survey and eradication program in the infested areas in California. Also, as explained below, California has taken action to impose restrictions on the intrastate movement of certain articles from the quarantined areas in order to prevent the artificial spread of the Oriental fruit fly within California. However, it is also necessary to impose restrictions on the interstate movement of certain articles from the quarantined areas in order to prevent the artificial spread of the Oriental fruit fly to noninfested areas in other states. Accordingly, to prevent the artificial spread of the Oriental fruit fly, this document establishes federal regulations, which are described below by section.

Section 301.93

Section 301.93 prohibits any person from moving any regulated article interstate from any quarantined area except in accordance with conditions prescribed in the regulations. For informational purposes, a footnote (footnote 1) has been added to reference the authority of an inspector to stop and inspect persons and means of conveyance, and to seize, quarantine, treat, apply other remedial measures to, destroy, or otherwise dispose of regulated articles as provided in section 10 of the Plant Quarantine Act (7 U.S.C. 164a) and sections 105 and 107 of the Federal Plant Pest Act (7 U.S.C. 150dd, 150ff).

Definitions (Section 301.93–1)

Section 301.93–1 contains definitions of the following terms: "Certificate," "Compliance Agreement," "Day degrees," "Deputy Administrator," "Infestation," "Inspector," "Interstate," "Limited permit," "Moved," "Movement or move," "Oriental fruit fly," "Person," "Plant Protection and Quarantine," "Quarantined area," "Regulated article," and "State."

Regulated Articles (Section 301.93–2)

The regulations impose conditions on the interstate movement of those articles that present a significant risk of spreading Oriental fruit fly if moved without restrictions from quarantined areas into or through noninfested areas. These articles, which are designated as regulated articles, are prohibited from moving interstate from quarantined areas except in accordance with conditions specified in §§ 301.93–4 through 301.93–10.

Section 301.93–2 designates as regulated articles a number of fruits, nuts, vegetables, and berries, and soil within the drip line of plants that produce the fruits, nuts, vegetables, or berries. Based on research and experience, the articles listed in § 301.93–2(a) and (b) as regulated articles are articles that are likely to cause the artificial spread of the Oriental fruit fly. In addition, § 301.93–2(c) allows designation of any other product, article, or means of conveyance as a regulated article, if an inspector determines that it presents a risk of spread of the Oriental fruit fly and notifies the person in possession of the product, article, or means of conveyance that it is subject to the restrictions in the regulations. This last provision for "any other product, article, or means of conveyance" allows an inspector who discovers a risk of spreading Oriental fruit fly (e.g., a truck with Oriental fruit fly pupae in cracks in the floorboards) to regulate the product, article, or means of conveyance immediately, by informing the person in possession of the product, article, or means of conveyance that it is being regulated.

Fruits, nuts, vegetables, or berries that are canned, or dried, or frozen below −17.8 °C. (0 °F.) are not included as regulated articles since the Oriental fruit fly could not survive under those conditions.

Quarantined Areas (Section 301.93–3)

As stated in § 301.93–3(a), it is necessary to designate as quarantined areas, areas in which the Oriental fruit fly has been found by an inspector, areas in which the Deputy Administrator has reason to believe the Oriental fruit fly is present, and areas the Deputy Administrator considers necessary to designate as quarantined areas because of their proximity to the Oriental fruit fly or their inseparability for quarantine enforcement purposes from localities where an Oriental fruit fly has been found.

Also, § 301.93–3(a) further provides that less than an entire State will be designated as a quarantined area only if the Deputy Administrator determines that (1) the State has adopted and is enforcing restrictions on the intrastate movement of the regulated articles that are substantially the same as those that are imposed under the regulations with respect to the interstate movement of these articles; and (2) the designation of less than the entire State as a quarantined area will prevent the interstate spread of the Oriental fruit fly. These determinations would indicate that infestations are confined to the quarantined areas and eliminate the need for designating an entire State as a quarantined area.

In accordance with these criteria, we are designating as a quarantined area an area in Los Angeles and Orange Counties in California. This area is as follows:

That portion of Los Angeles and Orange Counties starting at a point where Alondra Boulevard intersects Garfield Avenue, then east along Alondra Boulevard to its intersection with La Mirada Boulevard, then southeast along La Mirada Boulevard to its intersection with State Highway 39, then south along State Highway 39 to its intersection with Westminster Avenue, then west along Westminster Avenue, which then becomes 2nd Street, which then becomes Livingston Drive, to its intersection with Ocean Boulevard, then west along Ocean Boulevard to its intersection with Cherry Avenue, then north along Cherry Avenue, which becomes Garfield Avenue, to the point of beginning.

There does not appear to be any reason to designate any other quarantined areas in California other than those areas specified above. California has adopted and is enforcing regulations imposing restrictions on the intrastate movement of regulated articles that are substantially the same as those imposed on the interstate movement of regulated articles under this subpart.

Section 301.93–3(b) provides for the temporary designation of an area as a quarantined area for a short period of time without publication in the **Federal Register** if there is a basis for listing the area as a quarantined area under § 301.93–3(a) and if the owner or person in possession of the area is given written notice of the designation. This is necessary to prevent further artificial spread of the Oriental fruit fly until a document designating additional quarantined areas could be published in the **Federal Register**. Conditions Governing the Interstate Movement of Regulated Articles from Quarantined Areas (§§ 301.93–4 through 301.93–10).

Section 301.93–4

Section 301.93–4(a) requires regulated articles moved interstate from quarantined areas to be accompanied by a certificate or limited permit issued and attached as prescribed by §§ 301.93–5 and 301.93–8, unless moved as prescribed in ¶ 301.93–4(b).

Section 301.93–4(b) allows a regulated article to move interstate without a certificate or limited permit if the article originates outside of a quarantined area, if it is moved directly through the quarantined area without stopping, except for refueling or for traffic conditions such as traffic lights and stop signs, if it is shipped in an enclosed vehicle or is completely covered so as to prevent access by Oriental fruit flies, if the point of origin is clearly indicated on shipping documents, and if the enclosed vehicle or the enclosure which contains the regulated article is not opened, unpacked, or unloaded in the quarantined area.

Also, § 301.93–4(c) allows the Department to move interstate regulated articles without a certificate or limited permit for experimental or scientific purposes. However, they must be moved in accordance with a permit issued by the Deputy Administrator, under conditions that prevent the spread of Oriental fruit fly.

In § 301.93–4, a footnote (number 2) is added to remind persons of other applicable domestic plant quarantine and regulation requirements that need to be met during an interstate movement.

Section 301.93–5

Under Federal domestic plant quarantine programs, there is a difference between the use of certificates and limited permits. Certificates are issued for regulated articles upon a finding by an inspector that, because of certain conditions (e.g. the article is free of Oriental fruit fly), there is an absence of a pest risk prior to movement. Regulated articles accompanied by a certificate can be moved interstate without further restrictions being imposed. Limited permits are issued for regulated articles when an inspector has determined that, because of a possible pest risk, the articles may be safely moved interstate only subject to further restrictions, such as movement to limited areas and movement for limited purposes. Section 301.93–5 explains the conditions for issuing a certificate or limited permit.

Specifically, § 301.93–5(a) provides that a certificate shall be issued by an inspector for the movement of a regulated article if the inspector determines that the article: (1) Is free of Oriental fruit fly, has been treated under direction of an inspector in accordance with § 301.93–10, or comes from a premise of origin that is free of Oriental fruit fly and the article has not been exposed to Oriental fruit fly; (2) will be moved in compliance with any additional emergency conditions considered necessary to prevent the spread of Oriental fruit fly pursuant to section 105 of the Federal Plant Pest Act; and (3) is eligible for unrestricted movement under all other federal domestic plant quarantines and regulations applicable to that article.

A footnote (number 3) is added, which explains that the Secretary of Agriculture can, pursuant to section 105 of the Federal Plant Pest Act (7 U.S.C. 150dd), take emergency actions.

Section 301.93–5(b) provides for the issuance of a limited permit (in lieu of a certificate) by an inspector for movement of a regulated article if the inspector determines that the article is to be moved to a specified destination for specified handling, utilization or processing, and that the movement will not result in the spread of Oriental fruit fly.

Section 301.93–5(c) allows any person who has entered into and is operating under a compliance agreement to execute a certificate or limited permit for the interstate movement of a regulated article after an inspector has made a determination that the article is eligible for a certificate or limited permit in accordance with § 301.93–5(a) or (b).

Also, § 301.93–5(d) contains provisions for the withdrawal of a certificate or limited permit by an inspector upon a determination by the inspector that the holder of the certificate or limited permit has not complied with conditions for the use of the document. This section also contains provisions for notifying the holder of the reasons for the withdrawal and for holding a hearing if there is any conflict concerning any material fact.

Section 301.93–6

Section 301.93–6 provides for the issuance and cancellation of compliance agreements. Specifically, compliance agreements can be entered into by any person engaged in the business of growing, handling, or moving regulated articles who agrees in writing to comply with the provisions of Subpart 301.93. Compliance agreements are provided for the convenience of persons who, because of their businesses, are involved in shipments of regulated articles from quarantined areas; they are written to ensure that persons issuing certificates or limited permits are knowledgeable with respect to the requirements of Subpart 301.93 and have agreed to comply with them.

Section 301.93–6 also provides that an inspector supervising enforcement of a compliance agreement may cancel the agreement upon finding that a person who has entered into the agreement has failed to comply with any of the provisions of the regulations. The inspector will notify the holder of the compliance agreement of the reasons for cancellation and offer an opportunity for a hearing to resolve any conflicts of material fact. A footnote (number 5) is added to explain where compliance agreement forms can be obtained.

Sections 301.93–7, 301.93–8 and 301.93–9

Section 301.93–7 provides that any person who desires a certificate or limited permit to move regulated articles should request that an inspector issue a certificate or limited permit as far in advance of movement as possible (no less than 48 hours before the desired movement). A footnote (number 4) is added for informational purposes to indicate how to contact the inspectors for inspection or how to obtain additional information from offices of Plant Protection and Quarantine.

Section 301.93–8 requires the certificate or limited permit issued for the movement of the regulated article to be attached to the regulated article, or to a container carrying the regulated article, or to the accompanying waybill or other shipping document during the interstate movement. These provisions are necessary for enforcement purposes and to ensure that persons desiring inspection services can obtain them before the intended movement date.

Section 301.93–9 explains the APHIS policy that services of an inspector that are needed to comply with the provisions of the quarantine and regulations in subpart 301.93 are provided without cost during normal business hours, but that we will not be responsible for any other costs or charges.

Section 301.93–10

Section 301.93–10 sets forth treatment schedules that qualify cucumbers and soil for the issuance of a certificate as provided in § 301.93–5, and a treatment for premises on which regulated articles are grown. This section also identifies approved treatments for Oriental fruit fly that are listed in the Plant Protection and Quarantine Treatment Manual. The Plant Protection and Quarantine Treatment Manual is incorporated by reference in the Code of Federal Regulations in 7 CFR Part 300. Based on research by the Agricultural Research

Service, it has been determined that these treatments would destroy the Oriental fruit fly. Section 301.93–10 also includes a footnote that some varieties of fruit may be injured by one of the approved treatments (methyl bromide) and that shippers should test treat before making commercial treatments.

The treatment schedule for cucumbers, soil and premises in § 301.93–10 are as follows:

(a) Cucumbers:

Fumigation at NAP (chamber or tarpaulin) with 32 g/m³ methyl bromide for 4 hours at 70 °F or above, minimum gas readings 26 g/m³ at ½ hour, 20 g/m³ at 2 hours, 19 g/m³ at 4 hours; or, fumigration at NAP (chamber or tarpaulin) with 48 g/m³ methyl bromide for 2 hours at 70 °F or above, minimum gas readings 40 g/m³ at ½ hour, 30 g/m³ at 2 hours.

(b) Soil:

Soil within the drip area of plants which are producing or have produced the fruits, nuts, vegetables and berries listed in § 301.93–2(a) of this subpart: Apply diazinon at the rate of 5 pounds actual ingredient per acre to the soil within the drip area with sufficient water to wet the soil to at least a depth of ½ inch. Both immersion and pour-on treatment procedures are acceptable.

(c) Premises:

The field, grove or area in which a regulated article is grown must receive, prior to the initiation of harvest and continuing through harvest, three or more applications of malathion bait spray (2.4 ounces active ingredient of technical grade malathion and 9.6 ounces protein hydrolysate per acre) at 6- to 14-day intervals within one projected Oriental Fruit Fly life cycle (computed for that place and that time from day degree information).

Emergency Action

The Deputy Administrator of the Animal and Plant Health Inspection Service for Plant Protection and Quarantine has determined that an emergency situation exists, which warrants publication of this interim rule without prior opportunity for a public comment period. Due to the possibility that the Oriental fruit fly could be spread artifically to noninfested areas of the United States, a situation exists requiring immediate action to help control the spread of this pest. Therefore, in accordance with the administrative procedure provisions of 5 U.S.C. 553, we find that it would be impracticable and contrary to the public interest to give advance notice and opportunity to comment on this rule.

Further, pursuant to the administrative procedure provisions of 5 U.S.C. 553, we find that there is good cause to make this interim rule effective upon signature. We are accepting comments on this interim rule for 60 days after it is published. As soon as possible after the comment period closes, we will publish another document in the **Federal Register** discussing the comments we received and any changes we are making in the rule.

Executive Order 12291 and Regulatory Flexibility Act

We are issuing this rule in conformance with Executive Order 12291, and we have determined that it is not a "major rule." Based on information compiled by the Department, we have determined that this rule will have an effect on the economy of less than 100 million dollars; will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; and will not cause a significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

For this action, the Office of Management and Budget has waived the review process required by Executive Order 12291.

Within the quarantined area, there are fewer than 60 small entities that may be affected, including commercial growers of tomatoes and cucumbers, no more than 9 outdoor or mobile fruit stands, 38 nurseries and 2 community gardens. Except for the nurseries, most of the sales by these entities are local intrastate and would not be affected by the quarantine. Effects on the nurseries will be minimized by the soil treatment in the regulations, which is effective immediately after application. The two chief products of commercial growers in the regulated areas, tomatoes and cucumbers, may be moved immediately following methyl bromide treatment of the articles, which takes only a few hours. The malathion bait spray treatment for premises, which takes 21 to 30 days, is applied during the growing period and should not delay harvest and shipment.

Under these circumstances, the Administrator of the Animal and Plant Health Inspection Service has determined that this action will not have a significant economic impact on a substantial number of small entities.

Paperwork Reduction Act

The regulations in this subpart contain no information collection or recordkeeping requirements under the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*).

Executive Order 12372

This program/activity is listed in the Catalog of Federal Domestic Assistance under No. 10.025 and is subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with State and local officials. (See 7 CFR Part 3015, Subpart V).

List of Subjects in 7 CFR Part 301

Agricultural commodities, Plant diseases, Plant pests, Plants (Agriculture), Quarantine, Transportation, Oriental fruit fly, Incorporation by reference.

PART 301—DOMESTIC QUARANTINE NOTICES

Accordingly, 7 CFR Part 301 is amended as follows:

1. The authority citation for Part 301 is revised to read as follows, and other authority citations within Part 301 are removed:

Authority: 7 U.S.C. 150dd, 150ee, 150ff; 161, 162, and 167; 7 CFR 2.17, 2.51, and 371.2(c).

2. Part 301 is amended by adding a new "Subpart—Oriental Fruit Fly" to read as follows:

Subpart—Oriental Fruit Fly

Sec.

Subpart—Oriental Fruit Fly

§ 301.93 Restrictions on interstate movement of regulated articles.

No person shall move interstate from any quarantined area any regulated article except in accordance with this subpart.[1]

[1] Any properly identified inspector is authorized to stop and inspect persons and means of conveyance, and to seize, quarantine, treat, apply other remedial measures to, destroy, or otherwise dispose of regulated articles as provided in section 10 of the Plant Quarantine Act (7 U.S.C. 164a) and sections 105 and 107 of the Federal Plant Pest Act (7 U.S.C. 150dd, 150ff).

§ 301.93–1 Definitions.

In this subpart the following definitions apply:

Certificate. A document in which an inspector or person operating under a compliance agreement affirms that a specified regulated article is free of Oriental fruit fly and may be moved interstate to any destination.

Compliance agreement. A written agreement between Plant Protection and Quarantine and a person engaged in the business of growing, handling, or moving regulated articles, in which the person agrees to comply with this subpart and any conditions imposed pursuant to it.

Day degrees. A mathematical construct combining average temperature over time that is used to calculate the length of an Oriental fruit fly life cycle. Day degrees are the product of the following formula, with all temperatures measured in °F:

[(Minimum Daily Temp + Maximum Daily Temp)/2] − 54° = Day Degrees

Deputy Administrator. The Deputy Administrator of the Animal and Plant Health Inspection Service for Plant Protection and Quarantine, or any officer or employee of the United States Department of Agriculture to whom the Deputy Administrator has delegated authority to act in his or her stead.

Infestation. The presence of the Oriental fruit fly or the existence of circumstances that make it reasonable to believe that the Oriental fruit fly is present.

Inspector. Any employee of Plant Protection and Quarantine, Animal and Plant Health Inspection Service, United States Department of Agriculture, or other person authorized by the Deputy Administrator to enforce this subpart.

Interstate. From any state into or through any other state.

Limited permit. A document, in which an inspector or person operating under a compliance agreement affirms that a specified regulated article is eligible for interstate movement in accordance with § 301.93–5(b) of this subpart only to a specified destination and only in accordance with specified conditions.

Moved (Move, Movement). Shipped, offered for shipment to a common carrier, received for transportation or transported by a common carrier, or carried, transported, moved, or allowed to be moved by any means.

Oriental fruit fly. The insect known as Oriental fruit fly (*Dacus dorsalis* (Hendel)) in any state of development.

Person. Any association, company, corporation, firm, individual, joint stock company, partnership, society, or other organized group.

Plant Protection and Quarantine. Plant Protection and Quarantine, Animal and Plant Health Inspection Service, United States Department of Agriculture.

Quarantined area. Any State, or any portion of a State, listed in § 301.93–3(c) of this subpart or otherwise designated as a quarantined area in accordance with § 301.93–3(b) of this subpart.

Regulated article. Any article listed in § 301.93–2 of this subpart or otherwise designated as a regulated article in accordance with § 301.93–2(c) of this subpart.

State. The District of Columbia, Puerto Rico, the Northern Mariana Islands, or any state, territory or possession of the United States.

§ 301.93–2 Regulated articles.

The following are regulated articles:

(a) The following fruits, nuts, vegetables and berries:

Akia (*Wikstromeia phyllyraefolia*)
Alexander laurel (*Calophyllum inophyllum*)
Apple (*Malus sylvestris*)
Apricot (*Prunus armeniaca*)
Avocado (*Persea americana*)
Banana (*Musa paradisiaca* var. *sapientum*) (*Musa x paradisiaca*)
Banana, dwarf (*Musa nana*)
Barbados cherry (*Malpighia glabra*)
Bell pepper (*Capsicum annum*)
Brazil cherry (*Eugenia dombeyi*)
Breadfruit (*Artocarpus altilis*)
Caimitillo (*Chrysophyllum oliviforme*)
Cashew (*Anacardium occidentale*)
Cactus (*cereus coerulescens*)
Cherimoya (*Anonna cherimola*)
Cherry, Catalina (*Prunus ilicifolia*)
Cherry, Portuguese (*P. lusitanica*)
Chili (*Capsicum annum*)
Coffee, Arabian (*Coffea arabica*)
Country gooseberry (*Averrhoa carambola*)
Cucumber (*Cucumis sativas*)
Custard apple (*Annona reticulata*)
Date palm (*Phoenix dactylifera*)
Dragon tree (*Dracena draco*)
Eggfruit tree (*Pouteria campechiana*)
Elengi tree (*Mimusops elengi*)
Fig (*Ficus carica*)
Gourka (*Garcinia celebica*)
Granadilla, sweet (*Passiflora ligularis*)
Grape (*Vitis* spp.)
Grapefruit (*Citrus paradisi*)
Guava (*Psidium guajava*), (*P. Littorale*), (*P. cattleianum*)
Imbu (*Spondias tuberosa*)
Jackfruit (*Artocarpus heterophyllus*)
Jerusalem cherry (*Solanum pseudocapsicum*)
Kitembilla (*Dovyalis hebecarpa*)
Kumquat (*Fortunella japonica*)
Laurel (*Calophyllum inophyllum*)
Lemon (*Citrus limon*)
Lime, key or Mexican (*Citrus aurantifolia*)
Lime, Persian (*Citrus latifolia*)
Lime, sweet (*Citrus limetioides*)
Longan (*Euphoria longan*)
Loquat (*Eriobotrya japonica*)
Lychee nut (*Lychee chinensis*)
Malay apple (*Eugenia malaccensis*)
Mammee apple (*Mammea americana*)
Mandarin orange (*Citrus reticulata*) (*tangerine*)
Mango (*Mangifera indica*)
Mangosteen (*Garcinia mangostana*)
Mock orange (*Murraya exotica*)
Mulberry (*Morus nigra*)
Myrtle, downy rose (*Rhodomyrtus tomentosa*)
Natal plum (*Carissa grandiflora*)
Nectarine (*Prunus persica* var. *nectarina*)
Oleander, yellow (*Thevetia peruviana*)
Orange, calamondin (*Citrus riticulata* x. *Fortunella*)
Orange, Chinese (*Fortunella japonica*)
Orange, king (*Citrus reticulata* x. *C. sinensis*)
Orange, sweet (*Citrus sinensis*)
Orange, Unshu (*Citrus reticulata* var. *Unshu*)
Oriental bush red pepper (*Capsicum frutescens abbreviatum*)
Otaheite apple (*Spondias dulcis*)
Palm, syrup (*Jubaea spectabilis*)
Papaya (*Carica papaya*)
Passionflower (*Passiflora edulis*)
Panssionflower, softleaf (*Passiflora mollissima*)
Passionfruit (*Passiflora edulis*) (yellow lilikoi)
Peach (*Prunus persica*)
Pear (*Pyrus communis*)
Pepino (*Solanum muricatum*)
Pepper, sweet (*Capsicum frutescens* var. *grossum*)
Persimmon, Japanese (*Diospyros kaki*)
Pineapple guava (*Feijoa sellowiana*)
Plum (*Prunus americana*)
Pomegranate (*Punica granatum*)
Prickly pear (*Opuntia megacantha*) (*Opuntia ficus indica*)
Prune (*Prunus domestica*)
Pummelo (*Citrus grandis*)
Quince (*Cydonia oblonga*)
Rose apple (*Eugenia jambos*)
Sandalwood (*Santalum paniculatum*)
Sandalwood, white (*Santalum album*)
Santol (*Sandericum koetjape*)
Sapodilla (*Manilkara zapota*)
Sapodilla, chiku (*Manilkara zapota*)
Sapota, white (*Casimiroa edulis*)
Seagrape (*Coccoloba uvifera*)
Sour orange (*Citrus aurantium*)
Soursop (*Annona muricata*)
Star apple (*Chrysophyllum cainito*)
Surinam cherry (*Eugenia uniflora*)
Tomato (*Lycopersicon esculentum*)
Tropical almond (*Terminalia catappa*) (*Terminalia chebula*)
Velvet apple (*Diospyros discolor*)
Walnut (*Juglans hindsii*)
Walnut, English (*Juglans regia*)
Wampi (*Citrus lansium*)
West Indian cherry (*Malpighia punicifolia*)
Ylang-Ylang (*Cananga odorata*)

Any fruits, nuts, vegetables, or berries which are canned or dried or have been frozen below −17.8 °C. (O °F.) are not regulated articles.

(b) Soil within the drip area of plants that are producing or have produced the fruits, nuts, vegetables, or berries listed in paragraph (a) of this section.

(c) Any other product, article, or means of conveyance, not covered by paragraph (a) or (b) of this section, that an inspector determines presents a risk

of spread of the Oriental fruit fly and notifies the person in possession of it that the product, article, or means of conveyance is subject to the restrictions of this subpart.

§ 301.93–3 Quarantined areas.

(a) Except as otherwise provided in paragraph (b) of this section, the Deputy Administrator shall list as a quarantined area in paragraph (c) of this section, each State, or each portion of a State, in which the Oriental fruit fly has been found by an inspector, in which the Deputy Administrator has reason to believe that the Oriental fruit fly is present, or that the Deputy Administrator considers necessary to list because of its proximity to the Oriental fruit fly or its inseparability for quarantine enforcement purposes from localities in which an Oriental fruit fly has been found. Less than an entire State will be designated as a quarantined area only if the Deputy Administrator determines that:

(1) The State has adopted and is enforcing restrictions on the intrastate movement of the regulated articles that are substantially the same as those that are imposed under this subpart with respect to the interstate movement of regulated articles; and

(2) The designation of less than the entire State as a quarantined area will prevent the interstate spread of the Oriental fruit fly.

(b) The Deputy Administrator or an inspector may temporarily designate any nonquarantined area in a State as a quarantined area in accordance with the criteria specified in paragraph (a) of this section for listing quarantined areas. The Deputy Administrator will give written notice of this temporary designation to the owner or person in possession of the nonquarantined area; thereafter, the interstate movement of any regulated article from an area temporarily designated as a quarantined area is subject to this subpart. As soon as practicable, this area will be added to the list in paragraph (c) of this section or the designation shall be terminated by the Deputy Administrator or an inspector. The owner or person in possession of an area for which designation is terminated will be given notice of the termination as soon as practicable.

(c) The areas described below are designated as quarantined areas:

California

That portion of Los Angeles and Orange Counties starting at a point where Alondra Boulevard intersects Garfield Avenue, then east along Alondra Boulevard to its intersection with La Mirada Boulevard, then southeast along La Mirada Boulevard to its intersection with State Highway 39, then south along State Highway 39 to its intersection with Westminster Avenue, then west along Westminster Avenue, which then becomes 2nd Street, which then becomes Livingston Drive, to its intersection with Ocean Boulevard, then west along Ocean Boulevard to its intersection with Cherry Avenue, then north along Cherry Avenue, which becomes Garfield Avenue, to the point of beginning.

§ 301.94–4 Conditions governing the interstate movement of regulated articles from quarantined areas.[2]

Any regulated article may be moved interstate from a quarantined area only if moved under the following conditions:

(a) With a certificate or limited permit issued and attached in accordance with §§ 301.93–5 and 301.93–8 of this subpart;

(b) Without a certificate or limited permit, if:

(1) The regulated article originated outside of any quarantined area and is moved directly through (without stopping except for refueling, or for traffic conditions, such as traffic lights or stop signs) the quarantined area in an enclosed vehicle or is completely enclosed by a covering adequate to prevent access by Oriental fruit flies (such as canvas, plastic, or closely woven cloth) while moving through the quarantined area; and

(2) The point of origin of the regulated article is clearly indicated on shipping documents and the enclosed vehicle or the enclosure which contains the regulated article is not opened, unpacked, or unloaded in the quarantined area.

(c) Without a certificate or limited permit, if the regulated article is moved:

(1) By the United States Department of Agriculture for experimental or scientific purposes;

(2) Pursuant to a permit issued by the Deputy Administrator for the regulated article;

(3) Under conditions specified on the permit and found by the Deputy Administrator to be adequate to prevent the spread of Oriental fruit fly; and

(4) With a tag or label bearing the number of the permit issued for the regulated article securely attached to the outside of the container of the regulated article or securely attached to the regulated article itself if not in a container.

[2] Requirements under all other applicable Federal domestic plant quarantines and regulations must also be met.

§ 301.93–5 Issuance and cancellation of certificates and limited permits.

(a) An inspector [3] will issue a certificate for the interstate movement of a regulated article if the inspector determines that:

(1)(i) The regulated article has been treated under the direction of an inspector in accordance with § 301.93–10 of this subpart; or

(ii) Based on inspection of the premises of origin, or treatment of the premises of origin in accordance with § 301.93–10(c) of this subpart, the premises of origin are free from Oriental fruit fly and the regulated article has not been exposed to Oriental fruit fly; or

(iii) Based on inspection of the regulated article, it is free of Oriental fruit fly; and

(2) The regulated article is to be moved interstate in compliance with any additional emergency conditions necessary to prevent the spread of the Oriental fruit fly pursuant to section 105 of the Federal Plant Pest Act (7 U.S.C. 150dd); [4] and

(3) The regulated article is eligible for unrestricted interstate movement under all other federal domestic plant quarantines and regulations applicable to the regulated article.

(b) An inspector will issue a limited permit for the interstate movement of a regulated article if the inspector determines that:

(1) The regulated article is to be moved interstate to a specified destination for specified handling, utilization, or processing (the destination and other conditions to be listed in the limited permit), and this interstate movement will not result in the spread of the Oriental fruit fly because life stages of the Oriental fruit fly will be destroyed by the specified handling, utilization, or processing;

(2) The regulated article is to be moved interstate in compliance with any additional emergency conditions necessary to prevent the spread of the Oriental fruit fly pursuant to section 105 of the Federal Plant Pest Act (7 U.S.C. 150dd); and

[3] Inspectors are assigned to local offices of Plant Protection and Quarantine which are listed in telephone directories. Information concerning such local offices may also be obtained from the Deputy Administrator, Plant Protection and Quarantine, Animal and Plant Health Inspection Service, Federal Building, Hyattsville, Maryland 20782.

[4] Section 105 of the Federal Plant Pest Act (7 U.S.C. 150dd) provides that the Secretary of Agriculture may, under certain conditions, seize, quarantine, treat, destroy, or apply other remedial measures to, articles which he or she has reason to believe are infested or infected by or contain plant pests.

(3) The regulated article is eligible for interstate movement under all other federal domestic plant quarantines and regulations applicable to the regulated article.

(c) Certificates and limited permits for use for interstate movement of regulated articles may be issued by an inspector or person engaged in the business of growing, handling, or moving regulated articles provided the person is operating under a compliance agreement. A person operating under a compliance agreement may execute a certificate for the interstate movement of a regulated article if the inspector has made the determination that the regulated article is otherwise eligible for a certificate in accordance with paragraph (a) of this section. A person operating under a compliance agreement may execute a limited permit for interstate movement of a regulated article when the inspector has made the determination that the regulated article is eligible for a limited permit in accordance with paragraph (b) of this section.

(d) Any certificate or limited permit that has been issued or authorized may be withdrawn by an inspector orally or in writing, if he or she determines that the holder of the certificate or limited permit has not complied with all conditions under this subpart or the use of the certificate or limited permit. If the withdrawal is oral, the withdrawal and the reasons for the withdrawal shall be confirmed in writing as promptly as circumstances allow. Any person whose certificate or limited permit has been withdrawn may appeal the decision in writing to the Deputy Administrator within ten days after receiving the written notification of the withdrawal. The appeal must state all of the facts and reasons upon which the person relies to show that the certificate or limited permit was wrongfully withdrawn. As promptly as circumstances allow, the Deputy Administrator will grant or deny the appeal, in writing, stating the reasons for the decision. A hearing will be held to resolve any conflict as to any material fact. Rules of practice concerning a hearing will be adopted by the Deputy Administrator.

§ 301.93–6 Compliance agreement and cancellation.

(a) Any person engaged in the business of growing, handling, or moving regulated articles may enter into a compliance agreement to facilitate the interstate movement of regulated articles under this subpart.[5]

(b) Any compliance agreement may be cancelled orally or in writing by the inspector who is supervising its enforcement whenever the inspector finds that the person who has entered into the compliance agreement has failed to comply with this subpart or any conditions imposed pursuant to this subpart. If the cancellation is oral, the cancellation and the reasons for the cancellation shall be confirmed in writing as promptly as circumstances allow. Any person whose compliance agreement has been cancelled may appeal the decision, in writing, within ten days after receiving written notification of the cancellation. The appeal must state all of the facts and reasons upon which the person relies to show that the compliance agreement was wrongfully cancelled. As promptly as circumstances allow, the Deputy Administrator shall grant or deny the appeal, in writing, stating the reasons for the decision. A hearing shall be held to resolve any conflict as to any material fact. Rules of practice concerning a hearing will be adopted by the Deputy Administrator.

§ 301.93–7 Assembly and inspection of regulated articles.

(a) Any person (other than a person authorized to issue certificates or limited permits under § 301.93–5(c)), who desires to move interstate a regulated article accompanied by a certificate or limited permit shall, as far in advance of the desired interstate movement as possible (no less than 48 hours before the desired interstate movement), request an inspector [4] to issue the certificate or limited permit.

(b) The regulated article shall be assembled at the place and in the manner the inspector designates as necessary to comply with this subpart.

§ 301.93–8 Attachment and disposition of certificates and limited permits.

(a) A certificate or limited permit required for the interstate movement of a regulated article, at all times during the interstate movement, must be securely attached to the outside of the container containing the regulated article, securely attached to the regulated article itself if not in a container, or securely attached to the consignee's copy of the accompanying waybill or other shipping document: *Provided however,* that the requirements of this section may be met by attaching the certificte or limited permit to the consignee's copy of the waybill or other shipping document only if the regulated article is sufficiently described on the certificate, limited permit, or shipping document to identify the regulated article.

(b) The certificate or limited permit for the interstate movement of a regulated article must be furnished by the carrier to the consignee at the destination of the regulated article.

§ 301.93–9 Costs and charges.

The services of the inspector during normal business hours will be furnished without cost. The United States Department of Agriculture will not be responsible for any other costs or charges.

§ 301.93–10 Treatments.

Treatment schedules listed in the Plant Protection and Quarantine Treatment Manual to destroy Oriental fruit fly on regulated articles are authorized treatments. The Plant Protection and Quarantine Treatment Manual is incorporated by reference. For the full identification of this standard, see § 300.1, "Materials incorporated by reference". The following treatments are also authorized:

(a) *Cucumbers:* Fumigation at NAP (chamber or tarpaulin) with 32 g/m³ methyl bromide[6] for 4 hours at 70° F or above, minimum gas readings 26 g/m³ at ½ hour, 20 g/m³ at 2 hours, 19 g/m³ at 4 hours; or, fumigation at NAP (chamber or tarpaulin) with 48 g/m³ methyl bromide for 2 hours at 70° F or above, minimum gas readings 40 g/m³ at ½ hour, 30 g/m³ at 2 hours.

(b) *Soil.* Soil within the drip area of plants which are producing or have produced the fruits, nuts, vegetables and berries listed in § 301.93–2(a) of this subpart: Apply diazinon at the rate of 5 pounds actual ingredient per acre to the soil within the drip area with sufficient water to wet the soil to at least a depth of ½ inch. Both immersion and pour-on treatment procuedures are acceptable.

(c) *Premises:* The field, grove or area in which a regulated article is grown must receive, prior to the initiation of harvest and continuing through harvest, three or more applications of malathion bait spray (2.4 ounces active ingredient of technical grade malathion and 9.6 ounces protein hydrolysate per acre) at 6- to 14-day intervals within one projected Oriental fruit fly life cycle

[5] Compliance agreement forms are available without charge from the Permits Unit, Plant Protection and Quarantine, Animal and Plant Health Inspection Service, Federal Building, Hyattsville, MD 20782, and from local offices of the Plant Protection and Quarantine, which are listed in telephone directories.

[6] Some varieties of fruit may be injured by methyl bromide, and we suggest that shippers test treat before making commercial treatments.

(computed for that place and that time from day degree information).

Done at Washington, DC, this 17th day of July, 1987.

D. Husnik,

Acting Deputy Adminstrator, Plant Protection and Quarantine, Animal and Plant Health Inspection Service.

[FR Doc. 87-16662 Filed 7-21-87; 8:45 am]

BILLING CODE 3410-34-M

Agricultural Stabilization and Conservation Service

7 CFR Part 704

Conservation Reserve Program; Erosion Eligibility and Liquidated Damages

AGENCY: Agricultural Stabilization and Conservation Service, Commodity Credit Corporation, USDA.

ACTION: Interim rule.

SUMMARY: The purpose of this interim rule is to amend the erosion eligibility and liquidated damages provisions of the Conservation Reserve Program (CRP) regulations. This interim rule makes the dual criteria for erosion eligibility determinations, which were applicable to contracts for the 1987 crop year under the February 11, 1987, final rule, applicable to all contracts entered into pursuant to an offer made during CRP sign-ups held after March, 1987. This rule also changes the circumstances under which liquidated damages will be assessed by providing for liquidated damages as well as the refund of payments under certain circumstances.

DATE: Comments must be received on or before September 21, 1987.

ADDRESS: Comments may be mailed to James R. McMullen, Director, Conservation and Environmental Protection Division, ASCS, P.O. Box 2415, Washington, DC 20013.

FOR FURTHER INFORMATION CONTACT: James R. McMullen at the above address. (202) 447-6221.

SUPPLEMENTARY INFORMATION: This interim rule has been reviewed under USDA procedures established in accordance with Executive Order 12291 and provisions of Departmental Regulation 1512-1 and has been classified as "non-major." It has been determined that these provisions will not result in an annual effect on the national economy of $100 million or more.

It has been determined that the Regulatory Flexibility Act is not applicable to this rule since the Commodity Credit Corporation (CCC) is not required by 5 U.S.C. 553 or any other provision of law to publish a notice of proposed rulemaking with respect to the subject matter of this rule.

It has been determined by an environmental assessment that this action will have no significant adverse impact on the quality of the human environment. Therefore, an environmental impact statement is not needed. Copies of the environmental assessment are available upon written request.

The title and number of the Federal Assistance Program to which this rule applies is: Title: Conservation Reserve Program, Number 10.069, as found in the Catalog of Federal Domestic Assistance.

This program/activity is not subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with State and local officials. See Notice related to 7 CFR Part 3015, Subpart V, published at 48 FR 29115 (June 24, 1983).

Section 1231 of Title XII of the Food Security Act of 1985, as amended (the "Act"), directs the Secretary of Agriculture to formulate and carry out a Conservation Reserve Program (CRP) during the 1986 through 1990 crop years. The Secretary is authorized to enter into contracts with eligible owners and operators of highly erodible cropland to assist them in conserving and improving the soil and water resources of their farms and ranches by converting such land to vegetative cover for the length of the contract. The Secretary is required to place between 40 and 45 million acres of highly erodible cropland in the CRP during the 1986 through 1990 crop years.

An interim rule implementing the CRP was published in the **Federal Register** on March 13, 1986 (51 FR 8780). The interim rule was amended on May 9, 1986 (51 FR 8780). A final rule for the program was published on February 11, 1987, (52 FR 4265).

This interim rule further amends the CRP regulations as follows: (1) For CRP contracts entered into pursuant to signups held after March, 1987, erodibility eligibility determinations for land will be made on the basis of the dual criteria which applied to contracts for the 1987 crop year under the February 11, 1987 final rule; and, (2) the liquidated damages provisions of the regulations are expanded. Immediate implementation of the erosion eligibility criteria and liquidated damages provisions contained in this rule is necessary to assist in meeting program enrollment goals. Since the next sign-up will be held July 20-31, 1987, it is necessary to make this rule effective upon publication so that it will be in effect for the next CRP sign-up.

1. Erodibility Standards

The February 11, 1987, final rule changed the criteria that apply for determining which cropland will be considered "highly erodible" for purposes of the program. However, under the final rule, cropland was eligible to be placed in CRP under contracts effective beginning with the 1987 crop year ("1987 contracts"), if the cropland met either the old or revised erodibility eligibility criteria. The dual criteria was adopted in the final rule in order to avoid hardship for those farmers that had made preparation for participation in the program based upon the original criteria.

The purpose of extending the dual criteria to contracts entered into pursuant to future sign-ups is to increase the national total acreage eligible to be placed in the CRP. Use of the dual criteria will substantially increase the acres available for the CRP. Such an expansion is necessary to meet the program's enrollment goal. Cropland meeting either criteria is considered to be very erosive and desirable for inclusion in CRP.

Accordingly under 7 CFR 704.7, as amended by this rule, cropland offered for inclusion in the CRP through future sign-ups will be considered to qualify for the program as to erodibility if the field consists predominately of soils that:

(1) Are identified as being highly erodible in accordance with 704.8 of the CRP regulations (7 CFR Part 704) and having an erosion rate during the crop years 1981-1985 greater than that recommended by the Soil Conservation Service (SCS) Field Office Technical Guide; or

(2) Are classified by SCS as being predominantly Land Capability Classes II, III, IV, or V with an average annual erosion rate of 2T or greater, as announced by the Secretary; or are classified by SCS as predominantly Land Capability Classes VI, VII, or VIII.

A discussion of these erodibility criteria was set forth in the supplementary information for the final rule published at 52 FR 4265 on February 11, 1987.

2. Liquidated Damages

The program regulations, as implemented in the final rule, required a full refund to CCC of all payments received under the CRP contract in cases of contract non-compliance or contract termination and further specified that, if no payment had been

received under the CRP contract, liquidated damages would be due in an amount specified in the CRP contract. CRP contracts provide for assessment of liquidated damages at a rate of 25 percent of the annual rental payment provided for in the contract.

It has been determined that the requirement for refund of payments received is not adequate in some circumstances to compensate for the adverse effects on the program caused by the participant's failure to comply with the CRP contract. Accordingly, this rule amends § 704.22 to provide specifically for the assessment of liquidated damages as provided for in the CRP contract, in addition to a full refund of all payments received plus interest, in cases of contract non-compliance or contract termination, regardless of whether any payments have been received under the CRP contract.

List of Subjects in 7 CFR Part 704

Administrative practices and procedures, Conservation plan, Contracts, Technical assistance, Natural resources, Wildlife.

Interim Rule

Accordingly, 7 CFR Part 704, Conservation Reserve Program, is amended as follows:

PART 704—[AMENDED]

1. The authority citation for Part 704 continues to read as follows:

Authority: Secs. 1201, 1231–1244, Pub. L. 99–198, 99 Stat. 1354, as amended (16 U.S.C. 3801, 3831–3844).

2. Section 704.7 is amended by revising paragraph (a)(3), removing paragraphs (a)(4) and (a)(5), renumbering paragraph (a)(6) as paragraph (a)(4) and revising paragraph (c) to read as follows:

§ 704.7 Eligible cropland.

(a) * * *

(3) Consist predominantly of soils that meet the criteria of paragraph (a)(3)(i) or (a)(3)(ii) of this section as specified for CRP contracts for the respective crop years in paragraph (a)(3)(iii) of this section.

(i) Identified as being highly erodible in accordance with § 704.8 of this part and having an erosion rate during the crop years 1981–1985 greater than that recommended by the Soil Conservation Service Field Office Technical Guide.

(ii) Classified by SCS as being predominantly Land Capability Classes II, III, IV, and V with an average annual erosion rate of 2T or greater, as announced by the Secretary; or being predominantly Land Capability Classes VI, VII, or VIII.

(iii)(A) For CRP contracts entered into pursuant to offers to participate in the CRP submitted during signup periods prior to February, 1987, criteria set forth in paragraph (a)(3)(ii) of this section shall be applicable.

(B) For CRP contracts for the 1988 crop year entered into pursuant to offers to participate in the CRP submitted during the February, 1987, signup, criteria set forth in paragraph (a)(3)(i) of this section shall be applicable.

(C) For all other CRP contracts, criteria set forth in either paragraph (a)(3)(i) or (a)(3)(ii) of this section shall be applicable.

* * * * *

(c) A field shall be considered to be predominantly highly erodible if 66⅔ percent or more to the land in such fields meets the applicable requirements of paragraph (a)(3) of this section.

3. Section 704.21 is amended by revising paragraph (b)(3) to read as follows:

§ 704.21 Transfer of land.

* * * * *

(b) * * *

(3) Must pay liquidated damages to COC as set forth in § 704.22(a) of this part.

* * * * *

4. Section 704.22 is amended by revising paragraph (a)(2) and the last sentence of paragraph (a)(3) to read as follows:

§ 704.22 Violations.

(a) * * *

(2) If the CRP Contract is terminated by CCC in accordance with this paragraph (a), the participant shall forfeit all rights to further payments under the CRP Contract, refund all payments received together with interest thereon as determined by CCC and pay liquidated damages to CCC in such amount and under such conditions as are specified in the CRP Contract.

(3) * * * Therefore, participants shall be required to refund all payments received, plus interest, upon the termination of the CRP Contract in accordance with this paragraph (a) and pay liquidated damages in such amount and under such conditions as specified in the CRP Contract.

* * * * *

Signed at Washington, DC on July 17, 1987.

Milton J. Hertz,

Administrator, Agricultural Stabilization and Conservation Service, Executive Vice President, Commodity Credit Corporation.

[FR Doc. 87–16604 Filed 7–21–87; 8:45 am]

BILLING CODE 3410–05–M

Agricultural Marketing Service

7 CFR Part 925

Grapes Grown in a Designated Area of Southeastern California; Change in Fiscal Period

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This final rule changes the fiscal period from December 1 through November 30 to January 1 through December 31 (calendar year). This action will simplify and reduce the committee's bookkeeping and accounting procedures. The proposal was recommended by the California Desert Grape Administrative Committee, which works with the Department in administering the Federal marketing order for California desert grapes.

EFFECTIVE DATE: January 1, 1988.

FOR FURTHER INFORMATION CONTACT: James M. Scanlon, Acting Chief, Marketing Order Administration Branch, F&V, AMS, USDA, Washington, DC 20250–1400, telephone (202) 475–3914.

SUPPLEMENTARY INFORMATION: This final rule has been reviewed under Executive Order 12291 and Departmental Regulation 1512–1 and has been determined to be a "non-major" rule under criteria contained therein.

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Administrator of the Agricultural Marketing Service has determined that this action will not have a significant economic impact on a substantial number of small entities.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Agricultural Marketing Agreement Act of 1937, as amended (the Act, 7 U.S.C. 601 through 674), and rules promulgated thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

The Administrator of the Agricultural Marketing Service (AMS) has considered the impact of this action on small entities. The regulatory action in this instance is a final rule which makes the fiscal period the same as the calendar year. It is the Department's view that the final rule is of an administrative nature, which will

improve program efficiency. Thus, there is no impact on small businesses.

Marketing Order No. 925 regulates the handling of grapes grown in a designated area in southeastern California. The program is effective under the Act. The California Desert Grape Administrative Committee, established under the order, is responsible for its local administration.

At a public meeting on April 9, 1987, the committee recommended changing the fiscal period to allow the committee to operate on a calendar year basis. Under the final rule, the fiscal period will begin January 1 and end December 31. Section 925.12 authorizes the committee, with the Secretary of Agriculture's approval, to set the fiscal period.

Committee management has to maintain two separate sets of bookkeeping and accounting records: one to comply with committee operations for the December through November fiscal period, the other to comply with Federal and State accounting and employee tax reports which are required on a calendar year basis.

This action is necessary in order to allow the committee to simplify and reduce its bookkeeping and accounting procedures on a calendar year basis to coincide with Federal and State accounting procedures. Hence, a change in the fiscal period to coincide with the calendar year (January-December) is considered necessary. This action will enable the committee to operate more efficiently.

Since this action will change the fiscal period under the marketing order (7 CFR 925.12), no action is necessary for table grape imports under section 608e–1 of the Act. A change in the import regulation (7 CFR 944.503) is applicable when there is a change in the grade, size, quality, and maturity of a domestically produced commodity. Therefore, since fiscal period guidelines are not included in the requirements of section 8e, no change is necessary to the applicable import regulations.

Notice was given in the June 1, 1987, **Federal Register** (52 FR 20402), affording interested persons 30 days in which to submit written comments. None were submitted.

It is hereby found that changing the fiscal period from December 1 through November 30 to January 1 through December 31 will tend to effectuate the declared policy of the Act.

List of Subjects in 7 CFR Part 925

Marketing agreements and orders, Grapes, California.

For the reasons set forth in the preamble, Part 925 is amended as follows:

PART 925—GRAPES GROWN IN A DESIGNATED AREA OF SOUTHEASTERN CALIFORNIA

1. The authority citation for 7 CFR Part 925 continues to read as follows:

Authority: Secs. 1–19, 48 Stat. 31, as amended; 7 U.S.C. 601–674.

2. A new heading entitled *Subpart—Rules and Regulations and Section 925.112* are added to read as follows:

Subpart—Rules and Regulations

§ 925.112 Fiscal period.

Beginning January 1, 1988, "fiscal period" will mean January 1 through December 31 of each year.

Dated: July 17, 1987.

Ronald L. Cioffi,

Acting Deputy Director, Fruit and Vegetable Division, Agricultural Marketing Service.

[FR Doc. 87–16660 Filed 7–21–87; 8:45 am]

BILLING CODE 3410–02–M

DEPARTMENT OF COMMERCE

Economic Development Administration

13 CFR Part 309

[Docket No. 60108–7009]

Attorney and Consultant Fees

AGENCY: Economic Development Administration (EDA), Commerce.

ACTION: Final rule.

SUMMARY: This rule adopts as final EDA's interim regulations at 13 CFR 309.7—"Employment of expediters or administrative employees" at paragraph (c) and adds two references to Pub. L. 99–500 of October 18, 1986. This rule states that fees for services of attorneys and consultants in preparing applications for EDA financial assistance cannot be funded under Pub. L. 99–180 and Pub. L. 99–500; however, attorneys' and consultants' fees used to meet grant requirements, such as conducting a title search or preparing plans and specifications, could be paid for out of funds appropriated or otherwise made available under Pub. L. 99–180 or Pub. L. 99–500.

EFFECTIVE DATE: July 22, 1987.

FOR FURTHER INFORMATION CONTACT: James F. Marten, Deputy Chief Counsel, Economic Development Administration, U.S. Department of Commerce, Herbert C. Hoover Building, 14th Street between Pennsylvania and Constitution Avenues NW., Room 7009, Washington, DC 20230, (202) 377–5441.

SUPPLEMENTARY INFORMATION: EDA published an interim rule on fees for employment of attorneys and consultants on July 3, 1986, (51 FR 24303) and allowed interested persons 60 days to comment. No comments were received. EDA is adopting as a final rule, 13 CFR Part 309, "General Requirements for Financial Assistance" § 309.7 "Employment of expediters or administrative employees" and adding references to Pub. L. 99–500 of October 18, 1986.

Under Executive Order 12291 the Department must judge whether a regulation is "major" within the meaning of section 1 of the order and therefore subject to the requirement that a Regulatory Impact Analysis be prepared. This regulation is not major because it is not likely to result in an annual effect on the economy of $100 million or more; a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Accordingly, neither a preliminary nor final Regulatory Impact Analysis has to be or will be prepared.

This rule is exempt from all requirements of 5 U.S.C. 553 including notice and opportunity to comment and delayed effective date, because it relates to public property, loans, grants, benefits and contracts.

No other law requires that notice and opportunity for comment be given for the rule.

Accordingly, the Department's General Counsel has determined and so certified to the Office of Management and Budget, that dispensing with notice and opportunity for comment is consistent with the Administrative Procedure Act and all other relevant laws.

Since notice and an opportunity for comment are not required to be given for this rule under section 553 of the APA (5 U.S.C. 553) or any other law, under sections 603(a) and 604(a) of the Regulatory Flexibility Act (5 U.S.C. 603(a), 604(a)), no initial or final Regulatory Flexibility Analysis has to be or will be prepared.

This rule does not contain a collection of information for purposes of the Paperwork Reduction Act (Pub. L. 96–511).

List of Subjects in 13 CFR Part 309

Community development, Grant programs—community development, Loan programs—community development, Penalties.

The interim rule published in the **Federal Register** on July 3, 1986 (51 FR 24303) is adopted as final with the following changes.

PART 309—GENERAL REQUIREMENTS FOR FINANCIAL ASSISTANCE

1. The authority citation for Part 309 continues to read as follows:

Authority: Sec. 701, Pub. L. 89–136, 79 Stat. 570 (42 U.S.C. 3211); sec. 1–105, DOC Organization Order 10–4, as amended (40 FR 56702, as amended).

2. 13 CFR 309.7 is amended by revising paragraph (e) to read as follows:

§ 309.7 Employment of expediters or administrative employees; compensation of persons engaged by or on behalf of applicants.

* * * * *

(c) EDA will participate in such costs of facilities receiving financial assistance under the Act as are deemed to be reasonable as fees or compensation for services actually rendered by persons engaged by or on behalf of the EDA applicant for the purpose of rendering professional or other services necessary, as determined by EDA, in connection with such facilities or with the extension of financial assistance by EDA. Provided that, no funds appropriated or otherwise made available under Pub. L. 99–180, December 13, 1985, and Pub. L. 99–500, October 18, 1986, may be used directly or indirectly for attorneys' or consultants' fees in connection with securing grants and contracts made by EDA, such as preparing applications for EDA financial assistance; however, attorneys' and consultants' fees for meeting grant requirements, such as conducting a title search or preparing plans and specifications, could be eligible project costs and paid for out of funds appropriated or otherwise made available under Pub. L. 99–180 and Pub. L. 99–500. No fee or compensation will be allowed if it appears that the person charging such fee or compensation has:

* * * * *

Date: July 15, 1987.

Orson G. Swindle, III,

Assistant Secretary for Economic Development.

[FR Doc. 87–16589 Filed 7–21–87; 8:45 am]

BILLING CODE 3510–24–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Social Security Administration

20 CFR Parts 401, 404, and 416

[Regulation Nos. 1, 4, and 16]

Revision of Authority Citations

AGENCY: Social Security Administration, HHS.

ACTION: Final rule.

SUMMARY: We are revising the authority citations for the Social Security Administration regulations in 20 CFR Parts 401, 404, and 416 of the Code of Federal Regulations (CFR). These changes ensure conformity with the requirements set out in 1 CFR 21.40, et seq. (50 FR 12462 through 12469, March 28, 1985).

DATE: The effective date of this rule is July 22, 1987. We will consider any comments received by September 21, 1987. We will revise and republish this rule if the public comments warrant.

ADDRESS: Comments should be submitted to the Commissioner of Social Security, Department of Health and Human Services, P.O. Box 1585, Baltimore, Maryland 21203 or delivered to the Office of Regulations, Social Security Administration, 3–B–4 Operations Building, 6401 Security Boulevard, Baltimore, Maryland 21235 between 8:00 a.m. and 4:30 p.m. on regular business days. Comments received may be inspected during these same hours by making arrangements with the contact person shown below.

FOR FURTHER INFORMATION CONTACT: C.H. Campbell, Legal Assistant, Office of Regulations, Social Security Administration, 6401 Security Boulevard, Baltimore, Maryland 21235, (301) 597–3408.

SUPPLEMENTARY INFORMATION: We are revising the statutory authority citations for the Social Security Administration regulations under Title 20, Chapter III, of the CFR. The CFR Parts within this title that are being revised by this final rule are:

1. Part 401—*Disclosure of Official Records and Information;*
2. Part 404—*Federal Old-age, Survivors, and Disability Insurance;* and
3. Part 416—*Supplemental Security Income for the Aged, Blind, and Disabled.*

The Administrative Committee of the Federal Register set out new requirements for citing statutory authority in 1 CFR 21.40, et seq. of a final rule published in the **Federal Register** (FR) on March 28, 1985 (50 FR 12462 through 12469). The attached final rule conforms the manner of citing statutory authority to the new FR requirements by following changes:

1. All the authority citations within a subpart are centralized directly after the heading to the subpart and before the regulatory text of the subpart. Any authority citation that now follows a section in a subpart is transferred to the subpart's centralized authority section;

2. The centralized authority consists of the subpart's general authority (i.e., the authority basis for the entire subpart) and the authority citations for the sections within the subpart;

3. The centralized authority citation consists of United States Code (U.S.C.) and Social Security Act (the Act) citations where the authority is codified in the U.S.C. Where the authority is not yet codified (or will not be codified), the authority citations consist of the Pub. L. and United States Statutes at Large citations. Also, where the authority for a section in the subpart is based on nonstatutory authority such as a Presidential Executive Order, agency executive delegation, or other documents showing authority to issue regulations, it will be cited by document designation, FR volume and page and, if possible, a parallel citation to the CFR; and

4. The centralized authority citation also includes Public Law and United States Statutes at Large citations for statutory provisions that are not made part of the Act where those provisions *significantly* affect a U.S.C. or Act provision or otherwise provide the statutory basis for the regulation.

Regulatory Procedures

The Department, even when not required by statute, as a matter of policy, generally follows the Administrative Procedure Act (APA) notice of proposed rulemaking and public comment procedures specified in 5 U.S.C. 553 in the development of its regulations. The APA provides exceptions to its notice and public comment procedures when an agency finds there is good cause for dispensing with such procedures on the basis they are impracticable, unnecessary or contrary to the public interest.

We are publishing these regulations as a final rule with a 60-day comment period. We find good cause for dispensing with notice and public comment procedures under section 553(b)(B) of the Administrative Procedure Act (5 U.S.C. 553(b)(B)). We find prior notice and comment unnecessary because these are purely

technical changes which make no substantive change in the regulations.

Executive Order 12291

The Secretary has determined that this is not a major rule under Executive Order 12291 because it does not involve any costs. Therefore, a regulatory impact analysis is not required.

Paperwork Reduction Act

These regulations do not impose recordkeeping or reporting requirements on the public.

Regulatory Flexibility Act

We certify that these regulations will have no economic impact on small entities since they only involve a technical issue of placing and citing statutory authority.

(Catalog of Federal Domestic Assistance Programs: No. 13.802 Social Security Disability Insurance; No. 13.803 Social Security Retirement Insurance; No. 13.804 Social Security—Special Benefits for Persons Aged 72 and Over; No. 13.805 Social Security Survivors Insurance; No. 13.807 Supplemental Security Income)

List of Subjects

20 CFR Part 401

Administrative practice and procedure, Aid to families with dependent children, Black lung benefits, Freedom of information, Medicare, Old-Age, survivors, and disability insurance, Privacy, Social Security Administration, Supplemental security income (SSI).

20 CFR Part 404

Administrative practice and procedure, Death benefits, Disability benefits, Old-Age, survivors, and disability insurance.

20 CFR Part 416

Administrative practice and procedure, Aged; Blind, Disability benefits, Public assistance programs, Social Security Administration, Supplemental security income (SSI).

Dated: June 9, 1987.

Dorcas R. Hardy,

Commissioner of Social Security.

Approved: July 7, 1987.

Otis R. Bowen,

Secretary of Health and Human Services.

PART 401—DISCLOSURE OF OFFICIAL RECORDS AND INFORMATION

For the reasons set out in the preamble, Title 20, Chapter III, Part 401 of the Code of Federal Regulations is amended as follows:

1. The authority following the Part 401 table of contents is deleted.

2. The authority citation for Subpart A is added as follows:

Authority: Secs. 205(a), 1102, and 1106 of the Social Security Act; Sec. 413(b) of the Federal Mine Safety and Health Act of 1977; 5 U.S.C 552 and 552a, 26 U.S.C. 6103, 30 U.S.C. 923, 42 U.S.C. 405(a), 1302, and 1306.

3. The authority citation for Subpart B is added as follows:

Authority: Secs. 205(a), 1102, and 1106 of the Social Security Act; Sec. 413(b) of the Federal Mine Safety and Health Act of 1977; 5 U.S.C 552 and 552a, 8 U.S.C. 1360, 26 U.S.C. 6103, 30 U.S.C. 923, 42 U.S.C. 405(a), 1302, and 1306.

4. The authority citation for Subpart C is added as follows:

Authority: Secs. 205(a), 1102, and 1106 of the Social Security Act; Sec. 413(b) of the Federal Mine Safety and Health Act of 1977; 5 U.S.C 552 and 552a, 8 U.S.C. 1360, 26 U.S.C. 6103, 30 U.S.C. 923, 42 U.S.C. 405(a), 1302, and 1306.

5. The authority citation for Subpart D is added as follows:

Authority: Secs. 205(a), 1102, and 1106 of the Social Security Act; Sec. 413(b) of the Federal Mine Safety and Health Act of 1977; 5 U.S.C 552 and 552a, 26 U.S.C. 6103, 30 U.S.C. 923, 42 U.S.C. 405(a), 1302, and 13C6.

6. The authority citation for Subpart E is added as follows:

Authority: Secs. 205(a), 1102, and 1106 of the Social Security Act; Sec. 413(b) of the Federal Mine Safety and Health Act of 1977; 5 U.S.C 552 and 552a, 26 U.S.C. 6103, 30 U.S.C. 923, 42 U.S.C. 405(a), 1302, and 1306.

7. The authority citation for Subpart F is revised to read as follows:

Authority: Secs. 402(a)(9), 1102, and 1106 of the Social Security Act; 26 U.S.C. 6103(l)(7), 42 U.S.C. 602(a)(9), 1302, and 1306.

PART 404—FEDERAL OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE

For the reasons set out in the preamble, Title 20, Chapter III, Part 404 of the Code of Federal Regulations is amended as follows:

1. The authority citation for Subpart A is revised to read a set forth below and the authority citations following the sections in Subpart A are removed.

Authority: Secs. 203, 205(a), 216(j), 227, and 1102 of the Social Security Act; 42 U.S.C. 403, 405(a), 416(j), 427, and 1302.

2. The authority citation for Subpart B is revised to read as follows:

Authority: Secs. 205(a), 212, 213, 214, 216, 217, 223, and 1102 of the Social Security Act; 42 U.S.C. 405(a), 412, 413, 414, 416, 417, 423, and 1302.

3. The authority citation for Subpart C is revised to read as set forth below and the authority citations following the sections in Subpart C are removed.

Authority: Secs. 202(a), 205(a), 215, and 1102 of the Social Security Act; 42 U.S.C. 402(a), 405(a), 415 and 1302.

4. The authority citation for Subpart D is revised to read as set forth below and the authority citations following the sections in Subpart D are removed.

Authority: Secs. 202, 203 (a) and (b), 205(a), 216, 223, 228 (a)–(e), and 1102 of the Social Security Act; 42 U.S.C. 402, 403 (a) and (b), 405(a), 416, 423, 428 (a)–(e), and 1302.

5. The authority citation for Subpart E is revised to read as set forth below and the authority citations following the sections in Subpart E are removed.

Authority: Secs. 202, 203, 204 (a) and (e), 205(a), 222(b), 223(e), 224, 227, and 1102 of the Social Security Act; 42 U.S.C. 402, 403, 404 (a) and (e), 405(a), 422(b), 423(e), 424, 427, and 1302.

6. The authority citation for Subpart F is revised to read as set forth below and the authority citations following the sections in Subpart F are removed.

Authority: Secs. 204 (a)–(d), 205(a), and 1102 of the Social Security Act; 42 U.S.C. 404 (a)–(d), 405(a), and 1302.

7. The authority citation for Subpart G is revised to read as set forth below and the authority citations following the sections in Subpart G are removed.

Authority: Secs. 202 (i), (j), (o), (p), and (r), 205(a), 216(i)(2), 223(b), 228(a), and 1102 of the Social Security Act; 42 U.S.C. 402 (i), (j), (o), (p), and (r), 405(a), 416(i)(2), 423(b), 428(a), and 1302.

8. The authority citation for Subpart H is revised to read as set forth below and the authority citations following the sections in Subpart H are removed.

Authority: Secs. 205(a) and 1102 of the Social Security Act; 42 U.S.C. 405(a) and 1302.

9. The authority citation for Subpart I is revised to read as set forth below and the authority citations following the sections in Subpart I are removed.

Authority: Secs. 205 (a), (c)(1), (c)(2)(A), (c)(4), (c)(5), (c)(6), and (p), and 1102 of the Social Security Act; 42 U.S.C. 405 (a), (c)(1), (c)(2)(A), (c)(4), (c)(5), (c)(6), and (p) and 1302.

10. The authority citation for Subpart J is revised to read as set forth below and the authority citations following the sections in Subpart J are removed.

Authority: Secs. 201(j), 205 (a), (b), and (d)–(h), 221(d), and 1102 of the Social Security Act; 42 U.S.C. 401(j), 405 (a), (b), and (d)–(h), 421(d), and 1302; sec. 5 of Pub. L. 97–455, 96 Stat. 2500; sec. 6 of Pub. L. 98–460, 98 Stat. 1802.

11. The authority citation for Subpart K is revised to read as set forth below

and the authority citations following the sections in Subpart K are removed.

Authority: Secs. 205(a), 209, 210, 211, 229(a), 230, 231, and 1102 of the Social Security Act; 42 U.S.C. 405(a), 409, 410, 411, 429(a), 430, 431, and 1302.

12. The authority citation for Subpart M is revised to read as set forth below and the authority citations following the sections in Subpart M are removed.

Authority: Secs. 204, 205 (a) and (c), 218, and 1102 of the Social Security Act; 42 U.S.C. 404, 405 (a) and (c), 418, and 1302.

13. The authority citation for Subpart N is revised to read as follows:

Authority: Secs. 205 (a) and (p), 210 (l) and (m), 215(h), 217, 229, and 1102 of the Social Security Act; 42 U.S.C. 405 (a) and (p), 410 (l) and (m), 415(h), 417, 429, and 1302.

14. The authority citation for Subpart O is revised to read as follows:

Authority: Secs. 202 (l), 205 (a), (c)(5)(D), (i), and (o), 210 (a)(9) and (l)(4), 211(c)(3), and 1102 of the Social Security Act; 42 U.S.C. 402 (l), 405 (a), (c)(5)(D), (i), and (o), 410 (a)(9) and (l)(4), 411(c)(3), and 1302.

15. The authority citation for Subpart P is revised to read as set forth below and the authority citations following the sections in Subpart P are removed.

Authority: Secs. 202, 205 (a), (b), and (d)–(h), 216(i) 221 (a) and (i), 222(c), 223, 225, and 1102 of the Social Security Act; 42 U.S.C. 402, 405 (a), (b), and (d)–(h), 416(i), 421 (a) and (i), 422(c), 423, 425, and 1302; sec. 505(a) of Pub. L. 96–265, 94 Stat 473; secs. 2(d)(2), 5, 6, and 15 of Pub. L. 98–460, 98 Stat. 1797, 1801, 1802, and 1808.

16. The authority citation for Subpart Q is revised to read as follows:

Authority: Secs. 205(a), 221, and 1102 of the Social Security Act; 42 U.S.C. 405(a), 421, and 1302.

17. The authority citation for Subpart R is revised to read as follows:

Authority: Secs. 205(a), 206, and 1102 of the Social Security Act; 42 U.S.C. 405(a), 406, and 1302.

18. The authority citation for Subpart S is revised to read as follows:

Authority: Secs. 205 (a) and (n), 207, and 1102 of the Social Security Act; 42 U.S.C. 405 (a) and (n), 407, and 1302.

19. The authority citation for Subpart T is revised to read as follows:

Authority: Secs. 205(a), 233, and 1102 of the Social Security Act; 42 U.S.C. 405(a), 433, and 1302.

20. The authority citation for Subpart U is revised to read as set forth below and the authority citations following the sections in Subpart U are removed.

Authority: Secs. 205 (a), (j), and (k), and 1102 of the Social Security Act; 42 U.S.C. 405 (a), (j), and (k), and 1302.

21. The authority citation for Subpart V is revised to read as follows:

Authority: Secs. 205(a), 222, and 1102 of the Social Security Act; 42 U.S.C. 405(a), 422, and 1302.

PART 416—SUPPLEMENTAL SECURITY INCOME FOR THE AGED, BLIND, AND DISABLED

For the reasons set out in the preamble, Title 20, Chapter III, Part 416 of the Code of Federal Regulations is amended as follows:

1. The authority citation for Subpart A is revised to read as set forth below and the authority citations following the sections in Subpart A are removed.

Authority: Secs. 1102 and 1601–1634 of the Social Security Act; 42 U.S.C. 1302 and 1381–1383c; sec. 212 of Pub. L. 93–66, 87 Stat. 155; and sec. 502(a) of Pub. L. 94–241, 90 Stat. 268.

2. The authority citation for Subpart B is revised to read as set forth below and the authority citations following the sections in Subpart B are removed.

Authority: Secs. 1102, 1110(b), 1602, 1611, 1614, 1615(c), 1619(a), 1631, and 1634, of the Social Security Act 42 U.S.C. 1302, 1310(b), 1381a, 1382, 1382c, 1382d(c), 1382h(a), 1383, and 1383c; secs. 211 and 212 of Pub. L. 93–66, 87 Stat. 154 and 155; sec. 502(a) of Pub. L. 94–241, 90 Stat. 268; and sec. 2 of Pub. L. 99–643, 100 Stat. 3574.

3. The authority citation for Subpart C is revised to read as follows:

Authority: Secs. 1102, 1611, and 1631 (a), (d), and (e) of the Social Security Act; 42 U.S.C. 1302, 1382, and 1383 (a), (d), and (e).

4. The authority citation for Subpart D is revised to read as follows:

Authority: Secs. 1102, 1611 (a), (b), (c), and (e), 1612, 1617, and 1631 of the Social Security Act; 42 U.S.C. 1302, 1382 (a), (b), (c), and (e), 1382a, 1382f, and 1383.

5. The authority citation for Subpart E is revised to read as follows:

Authority: Secs. 1102, 1601, 1602, 1611(c), and 1631 (a), (b), (d), and (g) of the Social Security Act; 42 U.S.C. 1302, 1381, 1381(a), 1382(c), and 1383 (a), (b), (d), and (g).

6. The authority citation for Subpart F is revised to read as follows:

Authority: Secs. 1102 and 1631 (a) (2) and (d) (1) of the Social Security Act; 42 U.S.C. 1302 and 1383 (a) (2) and (d) (1).

7. The authority citation for Subpart G is revised to read as follows:

Authority: Secs. 1102, 1611, 1613, 1614, and 1631 of the Social Security Act; 42 U.S.C. 1302, 1382, 1382a, 1382b, 1382c, and 1383; sec. 211 of Pub. L. 93–66, 87 Stat. 154.

8. The authority citation for Subpart H is revised to read as follows:

Authority: Secs. 1102, 1601, 1614(a) (1), and 1631 of the Social Security Act; 42 U.S.C. 1302, 1381, 1382c(a)(1), and 1383.

9. The authority citation for Subpart I is revised to read as set forth below and the authority citations following the sections in Subpart I are removed.

Authority: Secs. 1102, 1614(a), 1619, 1631 (a) and (d) (1), and 1633 of the Social Security Act; 42 U.S.C. 1302, 1382c(a), 1382h, 1383 (a) and (d) (1), and 1383b; secs. 2, 5, 6, and 15 of Pub. L. 98–460, 98 Stat. 1794, 1801, 1802, and 1808.

10. The authority citation for Subpart J is revised to read as follows:

Authority: Secs. 1102, 1614, 1631, and 1633 of the Social Security Act; 42 U.S.C. 1302, 1382c, 1383, and 1383b.

11. The authority citation for Subpart K is revised to read as set forth below and the authority citations following the sections in Subpart K are removed.

Authority: Secs. 1102, 1602, 1611, 1612, 1613, 1614(f), 1621, and 1631 of the Social Security Act; 42 U.S.C. 1302, 1381a, 1382, 1382a, 1382b, 1382c(f), and 1382j, and 1383; sec. 211 of Pub. L. 93–66, 87 Stat. 154; sec. 2639 of Pub. L. 98–369, 98 Stat. 1144.

12. The authority citation for Subpart L is revised to read as set forth below and the authority citations following the sections in Subpart L are removed.

Authority: Secs. 1102, 1602, 1611, 1612, 1613, 1614(f), 1621, and 1631 of the Social Security Act; 42 U.S.C. 1302, 1381a, 1382, 1382a, 1382b, 1382c(f), 1382j, and 1383; sec. 211 of Pub. L. 93–66, 87 Stat. 154.

13. The authority citation for Subpart M is revised to read as set forth below and the authority citations following the sections in Subpart M are removed.

Authority: Secs. 1102, 1611–1615, 1619, and 1631 of the Social Security Act; 42 U.S.C. 1302, 1382–1382d, 1382h, and 1383; sec. 2 of Pub. L. 99–643, 100 Stat. 3574.

14. The authority citation for Subpart N is revised to read as set forth below and the authority citations following the sections in Subpart N are removed.

Authority: Secs. 1102, 1631, and 1633 of the Social Security Act; 42 U.S.C. 1302, 1383, and 1383b; sec. 6 of Pub. L. 98–460, 98 Stat. 1802.

15. The authority citation for Subpart O is revised to read as follows:

Authority: Secs. 1102 and 1631(d) of the Social Security Act; 42 U.S.C. 1302 and 1383(d).

16. The authority citation for Subpart P is revised to read as follows:

Authority: Secs. 1102, 1614 (a)(1)(B) and (e), and 1631 of the Social Security Act; 42 U.S.C. 1302, 1382c (a)(1)(B) and (e), and 1383; sec. 502 of Pub. L. 94–241, 90 Stat. 268.

17. The authority citation for Subpart Q is revised to read as follows:

Authority: Secs. 1102, 1611(e)(3)(A), 1615, and 1631 of the Social Security Act; 42 U.S.C. 1302, 1382(e)(3)(A), 1382d, and 1383.

18. The authority citation for Subpart R is revised to read as follows:

Authority: Secs. 1102, 1614 (b), (c), and (d), and 1631 (d)(1) and (e) of the Social Security Act; 42 U.S.C. 1302, 1382c (b), (c), and (d), and 1383 (d)(1) and (e).

19. The authority citation for Subpart S is revised to read as follows:

Authority: Secs. 1102 and 1631 of the Social Security Act; 42 U.S.C. 1302 and 1383.

20. The authority citation for Subpart T is revised to read as set forth below and the authority citations following the sections in Subpart T are removed.

Authority: Secs. 1102, 1616, 1618, and 1631 of the Social Security Act; 42 U.S.C. 1302, 1382e, 1382g, and 1383; sec. 212 of Pub. L. 93-66, 87 Stat. 155; sec. 401 of Pub. L. 92-603, 86 Stat. 1485; sec. 8 of Pub. L. 93-233, 87 Stat. 956; secs. 1 and 2 of Pub. L. 93-335, 88 Stat. 291.

21. The authority citation for Subpart U is revised to read as follows:

Authority: Secs. 1102, 1631(d)(1), and 1634 of the Social Security Act; 42 U.S.C. 1302, 1383(d)(1), and 1383c.

22. The authority citation for Subpart V is revised to read as follows:

Authority: Secs. 1102, 1615, and 1631 (d)(1) and (e) of the Social Security Act; 42 U.S.C. 1302, 1382d, and 1383 (d)(1) and (e); sec. 2344 of Pub. L. 97-35, 95 Stat. 867.

[FR Doc. 87-16637 Filed 7-21-87; 8:45 am]

BILLING CODE 4190-11-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 74

[Docket No. 86C-0301]

[Phthalocyaninato(2-)] Copper; Listing as a Color Additive for Coloring Monofilament Used in Intraocular Lenses; Confirmation of Effective Date

AGENCY: Food and Drug Administration.

ACTION: Final rule; confirmation of effective date.

SUMMARY: The Food and Drug Administration (FDA) is confirming the effective date of June 2, 1987, for the final rule that amended the color additive regulations to provide for the safe use of [phthalocyaninato(2-)] copper to color polymethylmethacrylate monofilament used as supporting haptics for intraocular lenses.

EFFECTIVE DATE: Effective date confirmed: June 2, 1987.

FOR FURTHER INFORMATION CONTACT: Marvin D. Mack, Center for Food Safety and Applied Nutrition (HFF-335), Food and Drug Administration, 200 C Street SW., Washington, DC 20204, 202-472-5690.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of May 1, 1987 (52 FR 15944), FDA amended 21 CFR Part 74 of the color additive regulations in 21 CFR 74.3045 by revising the introductory text of paragraphs (c)(1) and paragraph (c)(1)(i) on the use of [phthalocyaninato(2-)] copper in polymethylmethacrylate monofilament used as supporting haptics for intraocular lenses.

FDA gave interested persons until June 1, 1987, to file objections or requests for a hearing. The agency received no objections or requests for a hearing on the final rule. Therefore, FDA had concluded that the final rule published in the **Federal Register** of May 1, 1987, should be confirmed.

List of Subjects in 21 CFR 74

Color additives, Cosmetics, Drugs, Medical devices.

Therefore, under the Federal Food, Drug, and Cosmetic Act (secs. 701, 706, 52 Stat. 1055-1056 as amended, 74 Stat. 399-407 as amended (21 U.S.C. 371, 376)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10), notice is given that no objections or requests for a hearing were filed in response to the May 1, 1987, final rule. Accordingly, the amendments promulgated thereby became effective June 2, 1987.

Dated: July 20, 1987.

John M. Taylor,

Associate Commissioner for Regulatory Affairs.

[FR Doc. 87-16721 Filed 7-20-87; 2:08 pm]

BILLING CODE 4160-01-M

ENVIRONMENTAL PROTECTION AGENCY

21 CFR Parts 193 and 561

[OPP-300161A]

Daminozide; Revocation and Amendment of Food and Feed Additive Regulations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This document revokes the food additive regulation in dried prunes and amends (reduces) the food additive regulations for concentrated tomato products and the animal feed dried tomato pomace concerning residues of daminozide [but anedioic acid mono (2,2-dimethylhydrazide)], resulting from carryover and concentration of residues in these processed foods and feeds when present therein as a result of application of the plant regulator daminozide to growing plums (fresh prunes) and tomatoes. This action is being taken by EPA to remove one food additive regulation which is no longer necessary, and to amend (reduce) other food additive regulations which specify residue levels that are currently higher than needed.

EFFECTIVE DATE: Effective on July 22, 1987.

ADDRESS: Written objections, identified by the document control number [OPP-300161A], may be submitted to the: Hearing Clerk (A-110), Environmental Protection Agency, Room 3708, 401 M Street, SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: By mail:

Patricia Critchlow, Registration Division (TS-767), Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460.

Office location and telephone number: Room 716, CM #2, 1921 Jefferson Davis Highway, Arlington, VA, (703-557-1806).

SUPPLEMENTARY INFORMATION: EPA issued a notice, published in the **Federal Register** of March 3, 1987 (52 FR 6344), which proposed the revocation of the food additive regulation in dried prunes listed in 21 CFR 193.410 and amendment (reduction) of the food additive regulations in concentrated tomato products and the animal feed dried tomato pomace listed in 21 CFR 193.410 and 561.360, respectively, for residues of the plant regulator daminozide [but anedioic acid mono (2,2-dimethylhydrazide)].

No public comments or requests for referrral to an advisory committee were received in response to the notice of proposed rulemaking.

Therefore, based on the information considered by the Agency and discussed in detail in the March 3, 1987 proposal and in this final rule, the Agency is hereby revoking the food additive regulation in dried prunes (21 CFR 193.410) and amending (reducing) the food additive regulations in concentrated tomato products (21 CFR 193.410) and in the animal feed dried tomato pomace (21 CFR 561.360) for residues of daminozide (butanedioic acid mono (2,2-dimethylhydrazide)), resulting from carryover and concentration of residues in these processed foods and feeds when present therein as a result of application of the plant regulator daminozide to growing plums (fresh prunes) and tomatoes.

The existing food additive regulation for residues of daminozide in the animal feed peanut meal, which will remain unchanged, was inadvertently omitted when the proposed rule was published in the **Federal Register** of March 3, 1987. This final rule reflects the unchanged residue level for peanut meal.

Elsewhere in this issue of the **Federal Register**, the Agency has issued a related rule [OPP–300160A] which revokes or amends the tolerances for residues of daminozide in or on various raw agricultural commodities, including plums (fresh prunes) and tomatoes.

Any person adversely affected by this regulation revoking and amending the food additive regulations for daminozide may, within 30 days after the date of publication of this regulation in the **Federal Register**, file written objections with the Hearing Clerk, at the address given above. Such objections submitted must specify the provisions of the regulation deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

This document has been reviewed by the Office of Management and Budget as required by section 3 of Executive Order 12291.

In order to satisfy requirements for analysis as specified by Executive Order 12291 and the Regulatory Flexibility Act, the Agency has analyzed the costs and benefits of the revocation and amendment of the food additive regulations for daminozide. This analysis is available for public inspection in Rm. 236, CM #2, 1921 Jefferson Davis Highway, Arlington, VA.

Executive Order 12291

As explained in the proposal published March 4, 1987, the Agency has determined, pursuant to the requirements of Executive Order 12291, that the revocation and amendment of the food additive regulations discussed herein will not cause adverse economic impacts on significant portions of U.S. enterprises.

Regulatory Flexibility Act

This rulemaking has been reviewed under the Regulatory Flexibility Act of 1980 (Pub. L. 96–354; 94 Stat. 1164, 5 U.S.C. 601 *et seq.*) and it has been determined that it will not have a significant economic impact on a substantial number of small businesses, small governments, or small organizations. The reasons for this conclusion are discussed in the March 4, 1987 proposal.

List of Subjects in 21 CFR Parts 193 and 561

Food additives, Animal feeds, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: July 17, 1987.

Victor J. Kimm,

Assistant Administrator for Pesticides and Toxic Substances.

Therefore, 21 CFR Parts 193 and 561 are amended as follows:

PART 193—[AMENDED]

1. In Part 193:

a. The authority citation for Part 193 continues to read as follows:

Authority: 21 U.S.C. 348.

b. By revising § 193.410 to read as follows:

§ 193.410 Daminozide.

Tolerances are established for residues of the plant regulator daminozide (but anedioic acid mono (2,2-dimethylhydrazide)) in the following processed food commodities, when present therein as a result of the application of the pesticide to the growing crop.

Food commodities	Parts per million
Tomato products, concentrated	3

PART 561—[AMENDED]

2. In Part 561:

a. The authority citation for Part 561 continues to read as follows:

Authority: 21 U.S.C. 348.

b. By revising § 561.360 to read as follows:

§ 561.360 Daminozide.

Tolerances are established for residues of the plant regulator daminozide (but anedioic acid mono (2,2-dimethylhydrazide)) in the following animal feed commodities, when present therein as a result of the application of the pesticide to the growing crop.

Food commodities	Parts per million
Peanut meal	90
Tomato pomace, dried	10

[FR Doc. 87–16696 Filed 7–21–87; 8:45 am]

BILLING CODE 6560–50–M

21 CFR Part 561

[FAP 7H5528/R891; FRL–3236–5]

Tolerance for Pesticides in Feed; 2-[1-(Ethoxyimino)Butyl]-5-[2-(Ethylthio)-Propyl]-3-Hydroxy-2-Cyclohexen-1-One

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes a food additive regulation for the combined residues of the herbicide 2-[1-(ethoxyimino)butyl]-5-[2-(ethylthio)-propyl]-3-hydroxy-2-cyclohexen-1-one and its metabolites in or on the feed commodity flaxseed meal, when present therein as a result of application of the herbicide to the growing crop. The regulation to establish a maximum permissible level for residues of the herbicide in or on the commodity was requested in a petition submitted by the Interregional Research Project No. 4 (IR–4).

EFFECTIVE DATE: July 22, 1987.

ADDRESS: Written objections identified by the document control number (FAP 7H5528/R891) may be submitted to the: Hearing Clerk (A–110), Environmental Protection Agency, Room 3708, 401 M Street, SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: By mail: Donald R. Stubbs, Emergency Response and Minor Use Section (TS–767C), Registration Division, Environmental Protection Agency, 401 M Street SW., Washington, DC 20460.

Office location and telephone number: Room 716B, CM #2, 1921 Jefferson Davis Highway, Arlington, VA 22202 (703–557–1806).

SUPPLEMENTARY INFORMATION: EPA issued a notice, published in the **Federal Register** of March 18, 1987 (52 FR 8527), that announced that the Interregional Research Project No. 4 (IR–4), New Jersey Agricultural Experiment Station, P.O. Box 231, Rutgers University, New Brunswick, NJ 08903, had submitted a food additive petition (FAP 7H5528) to EPA on behalf of Dr. Robert H. Kupelian, National Director, IR–4 Project and the Agricultural Experiment Station of North Dakota. The petition proposed to amend 21 CFR Part 561 by establishing a feed additive regulation for the combined residues of the herbicide 2-[1-(ethoxyimino)butyl]-5-[2-(ethylthio)-propyl]-3-hydroxy-2-cyclohexen-1-one and its metabolites containing the 2-cyclohexen-1-one moiety (calculated as the herbicide) in or on the feed commodity flaxseed meal at 7 parts per million (ppm).

The data submitted in the petition and other relevant material have been evaluated and discussed in a proposed rule document, which proposed establishing a tolerance for the herbicide in or on the raw agricultural commodities flaxseed and flax straw, published in the **Federal Register** of June 10, 1987 (52 FR 21974).

The metabolism of 2-[1-(ethoxyimino)butyl]-5-[2-(ethylthio)-propyl]-3-hydroxy-2-cyclohexen-1-one is adequately understood and an adequate analytical method, gas-liquid chromatography using a flame photometric detector, is available for enforcement purposes. Analytical enforcement methods are currently available in the Pesticide Analytical Manual (PAM), Volume II. The pesticide is considered useful for the purpose for which the regulation is sought, and it is concluded that the herbicide can be safely used in this prescribed manner when such use is in accordance with the label and labeling registered pursuant to the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended (86 Stat. 973, 7 U.S.C. 135(a) *et seq.*). Therefore, the feed additive regulation is established as set forth below.

Any person adversely affected by this regulation may, within 30 days after publication of this notice in the **Federal Register**, file written objections with the Hearing Clerk, at the address given above. Such objections should specify the provisions of the regulation deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing and the grounds for the objections. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96–354, 94 Stat. 1164, 5 U.S.C. 602 through 612), the Administrator has determined that regulations establishing new food additive levels or conditions for safe use of additives, or raising such food additive levels, do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the **Federal Register** of May 4, 1981 (46 FR 24945).

List of Subjects in 21 CFR Part 561

Feed additives, Pesticides and pests, Recording and recordkeeping requirements.

Dated: July 10, 1987.

Douglas D. Campt,

Director, Office of Pesticide Programs.

PART 561—[AMENDED]

Therefore, 21 CFR Part 561 is amended as follows:

1. The authority citation for Part 561 continues to read as follows:

Authority: 21 U.S.C. 348.

2. Section 561.430 is amended by adding and alphabetically inserting the feed commodity flaxseed meal, to read as follows:

§ 561.430 2-[1-(ethoxyimino)butyl]-5-[2-(ethylthio)-propyl]-3-hydroxy-2-cyclohexen-1-one.

* * * * *

Feed	Parts per million
* * * * *	
Flaxseed meal	7
* * * * *	

[FR Doc. 87–16527 Filed 7–21–87; 8:45 am]

BILLING CODE 6560–50–M

21 CFR Part 561

[FAP 7H5339/R902; FRL–3237–1]

Pesticide Tolerances for Cyromazine

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule revises the established feed additive regulation permitting residues of the insecticide cyromazine in or on poultry feed only for chicken layer hens to include poultry feed for chicken breeder hens. This revision to the established feed additive regulation for the maximum permissible level for residues of cyromazine in or on poultry feed was requested by the Ciba-Geigy Corp.

EFFECTIVE DATE: Effective on July 15, 1987.

ADDRESS: Written comments and or objections, identified by the document control number [FAP 7H5339/R902], may be submitted to: Hearing Clerk [A–110], Environmental Protection Agency, Rm. 3708, 401 M Street, SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT:

Arturo E. Castillo, Product Manager (PM) 17, Registration Division (TS–767C), Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460. Office location and telephone number: Room 207, CM#2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703)–557–2690.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of May 15, 1985 (50 FR 20370), the Agency issued 21 CFR 561.99, which allowed the use of cyromazine as a feed additive in feed for chicken layer hens at the rate of not more than 0.01 pound of cyromazine per ton of poultry feed for control of flies in manure of treated chicken layer hens. Section 561.99 further provided that the feeding of cyromazine-treated feed must stop at least 3 days (72 hours) before slaughter and that residues of cyromazine are not to exceed 5.0 parts per million (ppm) in poultry feed.

Since the issuance of the May 15, 1985 final rule allowing the use of cyromazine in feed for chicken layer hens, Ciba-Geigy filed a petition to use cyromazine in feed for breeder chickens as well as chicken layer hens. Notice of Ciba-Geigy's petition to amend 21 CFR 561.99 to allow the use of cyromazine in feed for chicken breeder hens as well as chicken layer hens was published in the **Federal Register** of July 2, 1987 (52 FR 25068). There were no comments received in response to the notice of filing.

The Agency has reviewed the existing data in its files referenced in support of Ciba-Geigy's requested revision to the existing feed additive regulation for cyromazine. Data from the United States Department of Agriculture (USDA) categories chicken meat for consumption as follows:

CHICKEN MEAT FOR CONSUMPTION IN THE UNITED STATES

Type of chicken	Number of pounds (billion)	Percent of total
Broilers	16.00	92
Layer hens	1.20	7
Breeder hens	0.17	<1

Thus the maximum contribution of chicken meat from breeder hens for human consumption would be <1 percent of the total chicken meat available for human consumption.

Data from the USDA (Egg Products, Crop Reporting Board, Statistical Reporting Service 1983–1984) reveal that the annual total egg production is approximately 68.2 billion. Eggs from layer hens account for 90 percent of the total production, and the rest is contributed by breeder hens (hatching 9 percent and nonhatching purposes 1 percent). Thus the maximum contribution of eggs from breeder hens for human consumption (nonhatching

purposes) would be 1 percent of the total egg production.

The Agency has determined that since breeder hens contribute such a small portion (1 percent or less) to the total chicken meat and eggs available for human consumption, that this amendment to 21 CFR 561.99 would not significantly change the incremental risk resulting from potential exposure to cyromazine. Therefore, for the same reasons as stated in the final rule published in the **Federal Register** on May 15, 1985 (50 FR 20370, 20371, and 20373), the Agency is amending the feed additive regulation to include chicken breeder hens.

Elsewhere in this issue of the **Federal Register**, the Agency is issuing a final rule amending the established tolerances for residues of cyromazine in or on eggs and poultry meat, fat, and meat byproducts to include breeder chickens as well as chicken layer hens.

It should be noted that broiler chickens and other types of poultry are not covered by the amendment to the feed additive regulation, nor are they covered by the amendment to the established tolerances.

Any person adversely affected by this regulation may, within 30 days after publication of this document in the **Federal Register**, file written objections with the Hearing Clerk at the address given above. Such objections should specify the provisions of the regulation deemed objectionable and the grounds for the objection. If a hearing is requested, the objections must state the issues for the hearing and the grounds for the objection. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96-534, 94 Stat. 1164, 5 U.S.C. 601 through 612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the **Federal Register** of May 4, 1981 (46 FR 24950).

List of Subjects in 21 CFR Part 561

Pesticides and pests, Animal feeds.

Dated: July 15, 1987.

Douglas D. Campt,

Director, Office of Pesticide Programs.

PART 561—[AMENDED]

Therefore, it is proposed that 21 CFR Part 561 be amended as follows:

1. The authority citation for Part 561 continues to read as follows:

Authority: 21 U.S.C. 348.

2. By revising § 561.99 to read as follows:

§ 561.99 Cyromazine.

The additive cyromazine (*N*-cyclopropyl-1,3,5-triazine-2,4,6-triamine) may be safety used in accordance with the following prescribed conditions:

(a) It is used as a feed additive only in the feed for chicken layer hens and chicken breeder hens at the rate of not more than 0.01 pound of cyromazine per ton of poultry feed.

(b) It is used for control of flies in manure of treated chicken layer hens and chicken breeder hens.

(c) Feeding of cyromazine-treated feed must stop at least 3 days (72 hours) before slaughter. If the feed is formulated by any person other than the end user, the formulator must inform the end user, in writing, of the 3-day (72 hours) preslaughter interval.

(d) To ensure safe use of the additive, the labeling of the pesticide formulation containing the feed additive shall conform to the labeling which is registered by the U.S. Environmental Protection Agency, and the additive shall be used in accordance with this registered labeling.

(e) Residues of cyromazine are not to exceed 5.0 parts per million (ppm) in poultry feed.

[FR Doc. 87-16676 Filed 7-21-87; 8:45 am]

BILLING CODE 6560-50-M

DEPARTMENT OF THE INTERIOR

Minerals Management Service

30 CFR Parts 216 and 218

Assessments for Incorrect or Late Reports and Failure To Report

June 4, 1987.

AGENCY: Minerals Management Service (MMS), Interior.

ACTION: Final rule.

SUMMARY: The Minerals Management Service (MMS) is amending its regulations to provide more flexibility in establishing the amount of assessments against lessees, operators, and other reporters who report incorrectly, late, or fail to report. This modification applies to reports required by the MMS Auditing and Financial System (AFS) and the Production Accounting and Auditing System (PAAS).

DATES: These regulations will be effective on August 21, 1987.

ADDRESSES: Written inquiries regarding this final rulemaking should be mailed or delivered to Dennis C. Whitcomb, Chief, Rules and Procedures Branch, Minerals Management Service, P.O. Box 25165, MS 628, Building 85, Denver Federal Center, Denver, Colorado 80225.

FOR FURTHER INFORMATION CONTACT: Dennis C. Whitcomb, Chief, Rules and Procedures Branch, (303) 231-3432, Lakewood, Colorado.

SUPPLEMENTARY INFORMATION:

I. Background

Pursuant to 30 CFR Part 210, lessees and other royalty payors on Federal and Indian oil and gas leases are required to submit certain forms and reports to the MMS. Pursuant to 30 CFR 210.52, a completed Report of Sales and Royalty Remittance (Form MMS-2014) must accompany all payments for royalties to MMS. Similarly, for solid minerals leases, pursuant to 30 CFR 210.202, a Report of Sales and Royalty Remittance—Solid Minerals (Form MMS-4014) must accompany royalty payments. These reports are part of MMS's automated royalty accounting system, the AFS. Other reports are also required by Part 210.

The MMS also has regulations at 30 CFR Part 216 which require the filing of certain reports for MMS's automated production accounting system, the PAAS. These reports include: Oil and Gas Operations Report (Form MMS-4054); Gas Analysis Report (Form MMS-4055); Gas Plant Operations Report (Form MMS-4056); Fractionation Plant Operations Report (Form MMS-4057); Production Allocation Schedule Report (Form MMS-4058); Solid Minerals Operations Report (Form MMS-4059); and Solid Minerals Facility Report (Form MMS-4060). Other reports are also required by Part 216.

Regulations in Parts 210 and 216 specify when the reports are due. When reports are not accurately filed, MMS incurs substantial costs associated with correcting the reports so that the automated systems can operate properly to account for and distribute royalties, and to account for production. Late reports or failure to report (nonrespondent reports) can result in royalties and related information not being timely distributed to States and Indian tribes and allottees. To recover

the cost related to incorrect reporting, MMS regulations provide for assessments, in the nature of liquidated damages for late and erroneous reporting. For AFS reports, 30 CFR 218.40 (formerly 30 CFR 218.56) provides for an assessment of $10 for each line of the aforementioned reports which is not filed timely or which contains errors. For PAAS reports, an identical assessment is authorized by 30 CFR 216.40.

III. Regulatory Change

The assessment regulations in 30 CFR 216.40 and 218.40 reserve the MMS the discretion whether or not to assess a payor or operator. However, the existing regulations do not give MMS any flexibility in determining the amount of assessment per line—it must be $10. After experience in making such assessments, MMS has determined that it needs the ability to vary the amount of the assessments.

Therefore, MMS is amending the regulations that relate to AFS reporting in 30 CFR 218.40 and the regulations that relate to PAAS reporting i, 30 CFR 216.40 to provide that the assessment will be an amount "not to exceed $10" for each report as defined in the respective regulations (no change to the definition of report is being made). In many instances, the assessment will remain at $10 per report. However, MMS will have the flexibility, in appropriate circumstances, to reduce the per-report assessment.

The MMS also is removing from 30 CFR 216.40(b) and 218.40(b) the provisions which authorized an assessment "per day" for erroneous reports. The MMS does not believe that erroneous reporting should be subject to more than a one-time assessment. Late reports, on the other hand, may still be subject to per-day assessments.

The amount of the assessment for each error will be established periodically by MMS based on its experience with costs and improper reporting. MMS will publish a Notice in the **Federal Register** establishing the assessment amount. Thus, if, for example, in the preceding 12-month reporting period the total assessments for nonrespondent reporting to the AFS significantly exceed the costs of correcting the errors, MMS will be able to revise the per-line assessment in §§ 216.40(a) and 218.40(a) to bring the costs and the liquidated damages into parity.

III. Procedural Matters

Administrative Procedure Act

The Department of the Interior (DOI) has determined that, pursuant to 5 U.S.C. 553(b), notice and opportunity for public comment before adopting this rule is impractical, unnecessary, and contrary to the public interest. Current assessments, in some instances, are out of line with costs and with the nature of the error. This burden industry must be relieved as soon as possible. The potential reduction in assessments will not affect States and Indian tribes because, unlike civil penalties, the assessments are not shared by the Federal Government, but are meant to compensate the Federal Government for its costs and burdens associated with nonrespondent and erroneous reporting.

Executive Order 12291 and Regulatory Flexibility Act

The Department of the Interior has determined that this document is not a major rule under E.O. 12291 and certifies that this document will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*).

Paperwork Reduction Act of 1980.

This rule does not contain information collection requirements which require approval by the Office of Management and Budget under 44 U.S.C. 3501 *et seq.*

National Environmental Policy Act of 1969

The DOI has determined that this action does not consitute a major Federal action significantly affecting the quality of the human environment. Therefore, an environmental impact statement is not required under the National Environmental Policy Act of 1969 (42 U.S.C. 4223(2)(C)).

List of Subjects

30 CFR Part 216

Mineral production, Mineral royalties, Reporting and recordkeeping requirements, Oil and gas, Solid minerals.

30 CFR Part 218

Coal, Continental shelf, Electronic funds transfers, Geothermal energy, Government contracts, Indian lands, Mineral royalties, Oil and gas exploration, Public lands-mineral resources.

Dated June 17, 1987.

J. Steven Griles,

Assistant Secretary, Land and Minerals Management.

For the reasons set out in the preamble, 30 CFR Parts 216 and 218 are amended as follows:

PART 216—[AMENDED]

1. The authority citation for Part 216 is revised to read as follows:

Authority: 25 U.S.C. 396 *et seq.*; 25 U.S.C. 396a *et seq.*; 25 U.S.C. 2101 *et seq.*; 30 U.S.C. 181 *et seq.*; 30 U.S.C. 351 *et seq.*; 30 U.S.C. 1001 *et seq.*; 30 U.S.C. 1701 *et seq.*; 43 U.S.C. 1301 *et seq.*; 43 U.S.C. 1331 *et seq.*; and 43 U.S.C. 1801 *et seq.*

2. Section 216.40 is amended by revising paragraphs, (a) and (b) adding a new paragraph (g) to read as follows:

§ 216.40 Assessments for incorrect or late reports and failure to report.

(a) An assessment of an amount not to exceed $10 per day may be charged for each report not received by MMS by the designated due date.

(b) An assessment of an amount not to exceed $10 may be charged for each report received by the designated due date but which is incorrectly completed.

* * * * *

(g) The amount of the assessment to be imposed pursuant to paragraphs (a) and (b) of this section shall be established periodically by MMS. The assessment amount for each violation will be based on MMS's experience with costs and improper reporting. The MMS will publish a Notice of the assessment amount to be applied in the **Federal Register**.

PART 218—[AMENDED]

1. The authority citation for Part 218 is revised to read as follows:

Authority: 25 U.S.C. 396 *et seq.*; 25 U.S.C. 396a *et seq.*; 25 U.S.C. 2101 *et seq.*; 30 U.S.C. 181 *et seq.*; 30 U.S.C. 351 *et seq.*; 30 U.S.C. 1001 *et seq.*; 30 U.S.C. 1701 *et seq.*; 43 U.S.C. 1301 *et seq.*; 43 U.S.C. 1331 *et seq.*; and 43 U.S.C. 1801 *et seq.*

2. Section 218.40 is amended by revising paragraphs (a) and (b) and adding a new paragraph (g) to read as follows:

§ 218.40 Assessments for incorrect or late reports and failure to report.

(a) An assessment of an amount not to exceed $10 per day may be charged for each report not received by MMS by the designated due date.

(b) An assessment of an amount not to exceed $10 may be charged for each

report received by the designated due date but which is incorrectly completed.

* * * * *

(g) The amount of the assessment to be imposed pursuant to paragraphs (a) and (b) of this section shall be established periodically by MMS. The assessment amount for each violation will be based on MMS's experience with costs and improper reporting. The MMS will publish a Notice of the assessment amount to be applied in the **Federal Register.**

[FR Doc. 87-16653 Filed 7-21-87; 8:45 am]

BILLING CODE 4310-MR-M

DEPARTMENT OF AGRICULTURE

Forest Service

36 CFR Part 211

Administration; Appeal of Decisions of Forest Officers

AGENCY: Forest Service, USDA.

ACTION: Interim rule; request for public comment.

SUMMARY: A number of National Forest recreation residence permits will terminate with nonrenewal provisions as of December 31, 1987, and 1988. The decisions to terminate the permits were made 10 or more years ago, and most of those decisions were appealed at that time. The Forest Service has agreed to review those decisions to determine if they are still valid. This interim rule facilitates conducting these reviews by excluding the outcome of the reviews from the Agency's administrative appeal process. This action is necessary to prevent duplicative appeals that could seriously encumber the Agency's ability to manage National Forest resources, consequently delaying needed land management for years while appeals were being processed and decided.

DATES: This rule is effective July 22, 1987. Comments must be received by September 21, 1987.

ADDRESSES: Send written comments to F. Dale Robertson, Chief (2720-L), Forest Service, USDA, P.O. Box 96090, Washington, DC 20090-6090.

The public may inspect comments received on this interim rule in the office of the Director, Lands Staff, Room 1011-B, Rosslyn Plaza-East Building, 1621 North Kent Street, Rosslyn, Virginia, between the hours of 8:30 a.m. and 4:30 p.m.

FOR FURTHER INFORMATION CONTACT: Ruben M. Williams, Lands Specialist, Lands Staff, (703) 235-8107.

SUPPLEMENTARY INFORMATION:

Background

In the National Forest System there are approximately 310 recreation residence permits that are scheduled for termination of the residence use in order that another use of higher priority can be made of the lands. Approximately 50 of these permits will terminate in 1987 and 1988. The decisions to terminate these permits were made from 10 to 25 years ago. At that time, practically all of the affected holders appealed the termination decision. The Forest Service allowed the holders to keep their residences for a time period of 10 to 20 years before the permits actually would terminate.

Permittee organizations now are urging the Forest Service to review these termination decisions to determine whether or not circumstances have changed in the ensuing years and if the reasons for termination are still valid.

In response, the Forest Service has decided to institute a policy of reviewing the termination of recreation residence permits 2 to 3 years prior to the scheduled termination date upon petition by the affected permittee(s).

In order to conduct these reviews without encumbering or delaying land management decisions, it is necessary to amend the Agency's administrative appeal procedures at 36 CFR 211.18 to exclude these reconsiderations from appeal. Without this amendment, the Agency would subject itself to an unreasonable risk of new, but redundant, appeals. This exclusion does not deny permittees any rights of appeal, since they already had the right to appeal the original decision and most permittees availed themselves of that opportunity.

Upon publication of this rule, the Forest Service will issue interim direction to Forest Supervisors to notify those permittees whose permits will terminate by December 31, 1988, of their opportunity to petition for a review of the termination decision. The text of the direction as it will be issued in the Forest Service directive system in Forest Service Manual Chapter 2340 appears at the conclusion of this rule. The Agency will accept comments on the interim directive as well as the interim rule, and all comments will be considered in the development of a final rule and final policy, which will be published in the **Federal Register.**

Regulatory Impact

This interim rule has been reviewed under USDA procedures and Executive Order 12291, and it has been determined that this regulation is not a major rule.

The regulation will have little or no effect on the economy. Moreover, because some of the permits expire in December 1987 and it takes time to give notice to permittees and to review these decisions, time does not allow advance review by the Office of Management and Budget. In accordance with the procedure of E.O. 12291, notice of the interim rule is being given to the Director of OMB and any comments received from OMB will be considered in preparation of the final rule.

The Assistant Secretary of Agriculture for Natural Resources and the Environment has determined that this rule does not have a significant economic impact on a substantial number of small entities because of its limited scope and application, and therefore is not subject to review under the Regulatory Flexibility Act (5 U.S.C. 601 *et. seq.*).

This rule contains no information collection requirements as defined by the Paperwork Reduction Act (44 U.S.C. 3501 *et. seq.*) or implementing OMB regulation at 5 CFR Part 1320.

List of Subjects in 36 CFR Part 211

Administrative practice and procedure; National forests.

Therefore, for the reasons set forth in the preamble, Part 211 of Title 36 of the Code of Federal Regulations is amended as follows:

PART 211—[AMENDED]

1. The authority citation for Part 211 continues to read:

Authority: 30 Stat. 35, as amended, sec. 1, 33 Stat. 628 (16 U.S.C. 551, 472).

2. Revise § 211.18 by adding a new paragraph (b)(12) to read as follows:

§ 211.18 Appeal of decisions of forest officers.

* * * * *

(b) * * *

(12) Decisions resulting from review of previous decisions to terminate a recreation residence permit.

* * * * *

Douglas W. MacCleery,

Deputy Assistant Secretary for Natural Resources and Environment.

July 14, 1987.

FOREST SERVICE MANUAL

Washington, D.C.

Interim Directive No.

Duration: One year.

Chapter: 2340—Privately Provided Recreation Opportunities

Posting Notice: Last ID was No

This interim directive provides direction and procedures for the review of the termination decision for recreation residence permits that will terminate in 1987 and 1988.

2347.12—Future-Use Determination (Needs Assessment)

Review of Termination Decisions

Two years prior to a permit termination date, permittees may petition a Forest Supervisor to review decision to terminate a recreation residence permit.

Forest Supervisors shall promptly notify all permittees, whose permits are to be terminated by the end of 1987 and 1988, of their opportunity to petition. The notice must make clear that any decision or conclusion by the Forest Supervisor made in response to a petitioned review is excluded from appeal under the administrative appeal process (36 CFR 211.18(b)(12)). Upon receipt of petitions, the Supervisor shall promptly review the termination decision and give first priority to those permits with the earliest expiration date.

By January 1988 and annually thereafter, the Supervisor shall give permittees notice of the opportunity to petition for review for those permits terminating in December of the following year; for example, the 1988 notice will go to those whose permits expire December 1989.

In reviewing termination decisions, determine whether or not circumstances have changed since the decision was made and if the reasons for the termination are still valid. Keep the affected permittee(s) fully informed during the review and obtain permittee input and assistance where needed.

If the site is still needed for a higher priority use, promptly notify the affected permittee(s) that termination will proceed as scheduled. If the site is no longer needed for a higher priority use, issue a determination to remove the permittee from tenure and issue a new permit in compliance with FSM 2347 and 2721.

Where a permit is scheduled for termination because of evironmental, health, or safety reasons, the Forest Supervisor may authorize continuance of the recreation residence use in the following circumstances:

1. In cases where the original decision was made to eliminate a source of degradation of water, air, or other elements of environmental quality, review of possible alternatives reveals that there are now practical alternatives for achieving environmental quality or practical mitigating measures.

2. In cases where the original decision resulted from an identified need to protect the health and safety of the permittee and/or the public, review indicates that the source of the problem now can be corrected in a short time.

In these circumstances, authorize continued use by modifying the existing permit and by establishing appropriate permit conditions and/or adjusting the character of the use.

[FR Doc. 87-16603 Filed 7-21-87; 8:45 am]

BILLING CODE 3410-11-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 180

[OPP-300121C; FRL-3236-6]

Revocation of Aldrin and Dieldrin Tolerances; Correction

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; correction.

SUMMARY: This document corrects the final rule document revoking tolerances for aldrin and dieldrin, published in the Federal Register of December 24, 1986. This action is necessary to correct an erroneous action level for sweet potatoes.

EFFECTIVE DATE: December 24, 1986.

FOR FURTHER INFORMATION CONTACT:
By mail: Patricia Critchlow, Registration Division (TS-767), Environmental Protection Agency, 401 M Street SW., Washington, DC 20460.
Office location and telephone number: Room 716, CM #2, 1921 Jefferson Davis Highway, Arlington, VA, (703-557-1806).

SUPPLEMENTARY INFORMATION: EPA issued a final rule, FR Doc. 86-28745, published in the Federal Register of December 24, 1986 (51 FR 46662) which revoked tolerances for the pesticide chemicals aldrin and dieldrin.

In the preamble, revoked tolerances and recommended action levels for peppers and sweet potatoes were inadvertently omitted from Table 1, and were corrected in FR Doc. 87-8272, first column of page 12166 of the Federal Register of April 15, 1987

However, the recommended action level (ppm) for aldrin/dieldrin on sweet potatoes in 52 FR 12166, Table 1, third column, was erroneously given as "0.05"; the recommended action level should have been "0.1".

Accordingly, the recommended action level for aldrin/dieldrin on sweet potatoes in Table 1 is corrected to read as follows:

TABLE 1.—RECOMMENDED ACTION LEVELS

Commodities	Tolerances (ppm) being revoked		Recommended action levels (ppm), Aldrin/Dieldrin
	Aldrin	Dieldrin	
* * *	*	*	*
Sweet potatoes	0.1	0.1	0.1
* * *	*	*	*

List of Subjects in 40 CFR Part 180

Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: July 10, 1987.

Douglas D. Campt,

Director, Office of Pesticide Program.

[FR Doc. 87-16524 Filed 7-21-87; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 180

[PP 6E3389, 6E3439/R900; FRL-3236-7]

Pesticide Tolerances for Chlorpyrifos

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes tolerances for the combined residues of the insecticide chlorpyrifos and its metabolite 3,5,6-trichloro-2-pyridinol in or on the raw agricultural commodities dates and leeks. The Interregional Research Project No. 4 (IR-4) petitioned for these tolerances.

EFFECTIVE RATE: July 22, 1987.

ADDRESS: Written objections, identified by the document control number [PP 6E3389, 6E3439/R900], may be submitted to: Hearing Clerk (A-110), Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT:
By mail: Donald R. Stubbs, Emergency Response and Minor Use Section (TS-767C), Registration Division, Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460.
Office location and telephone number: Room 716B, CM #2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703)-557-1806.

SUPPLEMENTARY INFORMATION: EPA issued a proposed rule, published in the Federal Register of May 28, 1987 (52 FR 19894), which announced that the Interregional Research Project No. 4 (IR-4), New Jersey Agricultural Experiment Station, P.O. Box 231, Rutgers University, New Brunswick, NJ 08903, had submitted pesticide petitions 6E3389

and 6E3439 to EPA on behalf of Dr. Robert H. Kupelian, National Director, IR–4 Project, and the named Agricultural Experiment Stations.

The petitioner requested that the Administrator, pursuant to section 408(e) of the Federal Food, Drug, and Cosmetic Act, propose the establishment of tolerances for the combined residues of the pesticide chlorpyrifos [O,O-diethyl O-(3,5,6-trichloro-2-pyridyl)-phosphorothioate] and its metabolite 3,5,6-trichloro-2-pyridinol (TCP) in or on the raw agricultural commodities as follows:

1. PP 6E3389 on behalf of the Agricultural Experiment Station of New Jersey in or on leeks at 0.5 part per million (ppm), of which no more than 0.2 ppm is chlorpyrifos.

2. PP 6E3439 on behalf of the Agricultural Experiment Station of California in or on dates at 0.5 ppm, of which no more than 0.3 ppm is chlorpyrifos.

The petitioner proposed that the use of the pesticide on dates be limited to California, and the petition for leeks was later amended to propose that use of chlorpyrifos on leeks be limited to New Jersey based on the geographical representation of the residue data submitted. Additional residue data will be required to expand the areas of usage. Persons seeking geographically broader registration should contact the Agency's Registration Division at the address provided above.

There were no comments or requests for referral to an advisory committee received in response to the proposed rule.

The data submitted in the petitions and all other relevant material have been evaluated and discussed in the proposed rule. Based on the data and information considered, the Agency concludes that the tolerances will protect the public health. Therefore, the tolerances are established as set forth below.

Any person adversely affected by this regulation may, within 30 days after publication of this document in the Federal Register, file written objections with the Hearing Clerk, at the address given above. Such objections should specify the provisions of the regulation deemed objectionable and the grounds for the objections. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96–354, 94 Stat. 1164, 5 U.S.C. 601 through 612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the Federal Register of May 4, 1981 (46 FR 24950).

(Sec. 408(d), 68 Stat. 512 (21 U.S.C. 346a(d)))

List of Subjects in 40 CFR Part 180

Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: July 10, 1987.

Douglas D. Campt,

Director, Office of Pesticide Programs.

PART 180—[AMENDED]

Therefore, Part 180 is amended as follows:

1. The authority citation for Part 180 continues to read as follows:

Authority: 21 U.S.C. 346a.

2. Section 180.342 is amended by designating the current paragraph and list of tolerances as paragraph (a) and by adding new paragraph (b), to read as follows:

§ 180.342 Chlorpyrifos; tolerances for residues.

* * * * *

(b) Tolerances with regional registration, as defined in § 180.1(n), are established for the combined residues of chlorpyrifos and its metabolite 3,5,6-trichloro-2-pyridinol in or on the following raw agricultural commodities:

Commodities	Parts per million
Dates	0.5 (of which no more than 0.3 ppm is chlorpyrifos).
Leeks	0.5 (of which no more than 0.2 ppm is chlorpyrifos).

[FR Doc. 87–16525 Filed 7–21–87; 8:45 am]

BILLING CODE 6560–50–M

40 CFR Part 180

[PP 6E3411/R899; FRL–3236–1]

Pesticide Tolerance for 2-[1-(Ethoxyimino)Butyl]-5-[2-(Ethylthio)Propyl]-3-Hydroxy-2-Cyclohexen-1-One

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This rule establishes a tolerance for the combined residues of the herbicide 2-[1-ethoxyimino)butyl]-5-[2-(ethylthio)propyl]-3-hydroxy-2-cyclohexen-1-one and its metabolites in or on the raw agricultural commodities flaxseed and flax straw. The Interregional Research Project No. 4 (IR–4) petitioned for this regulation.

EFFECTIVE DATE: July 22, 1987.

ADDRESS: Written objections, identified by the document control number [PP 6E3411/R899], may be submitted to: Hearing Clerk (A–110), Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT:

By mail: Donald R. Stubbs, Emergency Response and Minor Use Section (TS–767C), Registration Division, Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460.

Office location and telephone number: Room 716B, CM #2, 1921 Jefferson Davis Highway, Arlington, VA 22202, (703)–557–1806.

SUPPLEMENTARY INFORMATION: EPA issued a proposed rule, published in the Federal Register of June 10, 1987 (52 FR 21974), which announced that the Interregional Research Project No. 4 (IR–4), New Jersey Agricultural Experiment Station, P.O. Box 231, Rutgers University, New Brunswick, NJ 08903, had submitted pesticide petition 6E3411 to EPA on behalf of Dr. Robert H. Kupelian, National Director, IR–4 Project, and the Agricultural Experiment Station of North Dakota.

The petitioner requested that the Administrator, pursuant to section 408(e) of the Federal Food, Drug, and Cosmetic Act, propose the establishment of tolerances for the combined residues of the herbicide 2-[1-(ethoxyimino)butyl]-5-[2-(ethylthio)propyl]-3-hydroxy-2-cyclohexen-1-one and its metabolites containing the 2-cyclohexen-1-one moiety (calculated as the herbicide) in or on the raw agricultural commodities flaxseed at 5.0 parts per million (ppm) and flax straw at 2.0 ppm. In addition, it was stated that IR–4 had submitted a related food additive petition 7H5528 proposing a regulation to permit residues of the herbicide on flaxseed meal at 7 ppm resulting from application to the growing crop.

There were no comments or requests for referral to an advisory committee received in response to the proposed rule.

The data submitted in the petition and all other relevant material have been evaluated and discussed in the proposed rule. Based on the data and information considered, the Agency concludes that

the tolerances will protect the public health. Therefore, the tolerances are established as set forth below.

Any person adversely affected by this regulation may, within 30 days after publication of this document in the **Federal Register**, file written objections with the Hearing Clerk, at the address given above. Such objections should specify the provisions of the regulation deemed objectionable and the grounds for the objections. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96–354, 94 Stat. 1164, 5 U.S.C. 601 through 612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the **Federal Register** of May 4, 1981 (46 FR 24950).

(Sec. 408(d), 68 Stat. 512 (21 U.S.C. 346a(d)))

List of Subjects in 40 CFR Part 180

Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: July 10, 1987.

Douglas D. Campt,

Director, Office of Pesticide Programs.

PART 180—[AMENDED]

Therefore, Part 180 is amended as follows:

1. The authority citation for Part 180 continues to read as follows:

Authority: 21 U.S.C. 346a.

2. Section 180.412 is amended by adding and alphabetically inserting the raw agricultural commodities, to read as follows:

§ 180.412 2-[1-(Ethoxyimino)butyl]-5-[2-(ethylthio)propyl]-3-hydroxy-2-cyclohexen-1-one; tolerances for residues.

* * * * *

Commodities	Parts per million
* * * * *	
Flaxseed	5.0
Flax straw	2.0
* * * * *	

[FR Doc. 87-16526 Filed 7-21-87; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 180

[PP 7F3544/R901; FRL-3237-2]

Pesticide Tolerances for Cyromazine

AGENCY: Environmental Protection Agency(EPA).

ACTION: Finel rule.

SUMMARY: This rule revises the established tolerances for residues of the insecticide cyromazine and its metabolite melamine in or on eggs and cyromazine in or on poultry fat, poultry meat, and poultry meat byproducts from chicken layer hens only to include those same raw agricultural commodities for chicken breeder hens. This revision to the established tolerances for residues of cyromazine in or on poultry fat, poultry meat, poultry meat byproducts, and eggs was requested by the Ciba-Geigy Corp.

EFFECTIVE DATE: Effective on July 15, 1987.

ADDRESS: Written comments and or objections, identified by the document control number [PP 7F3544/R901], may be submitted to: Hearing Clerk [A-110], Environmental Protection Agency, Room 3708, 401 M Street, SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Arturo E. Castillo, Product Manager (PM) 17, Registeration division (TS-767C), Environmental Protection Agency, 401 M Street SW., Washington, DC 20460. Office location and telephone number: Room 207, CM #2, 1921 Jefferson Davis Hwy., Arlington, VA 22202, (703)-557-2690.

SUPPLEMENTARY INFORMATION: In the **Federal Register** of May 15, 1985 (50 FR 20371), the Agency issued 40 CFR 180.414, which established tolerances for combined residues of the insecticide cyromazine and its matabolite malamine in or on eggs at 0.25 part per million (ppm) and established tolerances for residues of cyromazine and residues of melamine in or on poultry fat (from chicken layer hens only), poultry meat (from chicken layer hens only), and poultry meat by products (from chicken layer hens only) at 0.05 ppm.

Since the issuance of the May 15, 1985 final rule establishing tolerances for combined residues of cyromazine and its metabolite melamine in or on eggs and tolerances for residues of cyromazine in or on poultry fat, poultry meat, and poultry meat by products from chicken layer hens only, Ciba-Geigy filed a petition to amend the cyromazine tolerances to include chicken breeder hens as well as chicken layer hens. Notice of Ciba-Geigy's petition to amend 40 CFR 180.414 to include cyromazine tolerances for chicken breeder hens as well as chicken layer hens was published in the **Federal Register** of July 2, 1987 (52 FR 25068). There were no comments received in response to the notice of filing.

The Agency has reviewed the existing data in its files referenced in support of Ciba-Geigy's requested revision to the existing feed additive regulation for cyromazine. Data from the United States Department of Agriculture (USDA) categorize chicken meat for consumption as follows:

CHICKEN MEAT FOR CONSUMPTION IN THE UNITED STATES

Type of chicken	Number of pounds (billion)	Percent of total
Broilers	16.00	92
Layer hens	1.20	7
Breeder hens	0.17	<1

Thus the maximum contribution of chicken meat from breeder hens for human consumption would be <1 percent of the total chicken meat available for human consumption.

Data from the USDA (Egg Products, Crop Reporting Board, Statistical Reporting Service 1983–1984) reveal that the annual total egg production is approximately 68.2 billion. Eggs from layer hens account for 90 percent of the total production, and the rest is contributed by breeder hens (hatching 9 percent and nonhatching 1 percent). Thus the maximum contribution of eggs from breeder hens for human consumption (nonhatching purposes) would be 1 percent of the total egg production.

The Agency has determined that since breeder hens contribute such a small portion (1 percent or less) to the total chicken meat and eggs available for human consumption, that this amendment to 40 CFR 180.414 would not significantly change the incremental risk resulting from potential exposure to cyromazine. Therefore, for the same reasons as stated in the final rule published in the **Federal Register** on May 15, 1985 (50 FR 20370, 20371, and

20373), the Agency is amending the tolerances for residues of cyromazine to include chicken breeder hens.

Elsewhere in this issue of the Federal Register, the Agency is issuing a final rule amending the established feed additive regulation (21 CFR 561.99) for residues of cyromazine in or on poultry feed to include chicken breeder hens as well as chicken layer hens.

It should be noted that broiler chickens and other types of poultry are not covered by the amendment to the feed additive regulation, nor are they covered by the amendment to the established tolerances.

It should also be noted that all of the established tolerances for cyromazine currently set forth in 40 CFR 180.414 will remain unchanged except for those pertaining to fat, meat, and meat byproducts of poultry. The tolerances pertaining to fat, meat, and meat byproducts of poultry are being changed only to the extent that they will now include chicken breeder hens as well as chicken layer hens.

Any person adversely affected by this regulation may, within 30 days after publication of this document in the Federal Register, file written objections with the Hearing Clerk at the address given above. Such objections should specify the provisions of the regulation deemed objectionable and the grounds for the objection. If a hearing is requested, the objections must state the issues for the hearing and the grounds for the objection. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96-534, 94 Stat. 1164, 5 U.S.C. 601 through 612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the Federal Register of May 4, 1981 (46 FR 24950).

List of Subjects in 40 CFR Part 180

Administrative practice procedure, Agricultural commodities, Pesticides and pests.

Dated: July 15, 1987.

Douglas D. Campt,

Director, Office of Pesticide Programs.

PART 180—[AMENDED]

Therefore, 40 CFR Part 180 is amended as follows:

1. The authority citation for Part 180 continues to read as follows:

Authority: 21 U.S.C. 346a.

2. In § 180.414, by revising paragraphs (a), (b), and (c), to read as follows:

§ 180.414 Cyromazine; tolerances for residues.

(a) Tolerances are established for combined residues of the insecticide cyromazine (*N*-cyclopropyl-1,3,5-triazine-2,4,6-triamine) and its metabolite melamine (1,3,5-triazine-2,4,6-triamine) in or on the following raw agricultural commodities:

Commodities	Parts per million
Eggs	0.25

(b) Tolerances are established for residues of the insecticide cyromazine (*N*-cyclopropyl-1,3,5-triazine-2,4,6-triamine) in or on the following raw agricultural commodities:

Commodities	Part per million
Fat, poultry (from chicken layer hens and chicken breeder hens only)	0.05
Meat, poultry (from chicken layer hens and chicken breeder hens only)	0.05
Meat byproducts (from chicken layer hens and chicken breeder hens only)	0.05

(c) Tolerances are established for residues of the cyromazine metabolite melamine (1,3,5-triazine-2,4,6-triamine) in or on the following raw agricultural commodities:

Commodities	Part per million
Fat, poultry (from chicken layer hens and chicken breeder hens only)	0.05
Meat, poultry (from chicken layer hens and chicken breeder hens only)	0.05
Meat byproducts (from chicken layer hens and chicken breeder hens only)	0.05

* * * * *

[FR Doc. 87-16675 Filed 7-21-87; 8:45 am]

BILLING CODE 6560-50-M

40 CFR Part 180

[OPP-300160A]

Daminozide; Revocation and Amendment of Tolerances

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This document (1) revokes the tolerances for residues of the plant regulator daminozide [butanedioic acid mono (2,2-diemthylhydrazide)] in or on brussels sprouts, melons, peppers, and plums, and (2) amends the tolerance for residues of daminozide in or on tomatoes. EPA is taking this action to remove four tolerances for commodities for which there are no related registrations, and to amend (reduce) one tolerance which has been determined to be higher than needed.

EFFECTIVE DATE: Effective on July 22, 1987.

ADDRESS: Written objections, identified by the document control number [OPP-300160A], may be submitted to the: Hearing Clerk (A-110), Environmental Protection Agency, Room 3708, 401 M Street, SW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: By mail:

Patricia Critchlow, Registration Division (TS-767), Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460.

Office location and telephone number: Room 716, CM #2, 1921 Jefferson Davis Highway, Arlington, VA, (703-557-1806).

SUPPLEMENTARY INFORMATION: EPA issued a notice, published in the Federal Register of March 3, 1987 (52 FR 6348), which (1) proposed the revocation of the tolerances for residues of daminozide in or on brussels sprouts, melons, peppers, and plums (fresh prunes), and (2) proposed the amendment (reduction) of the tolerance for residues of daminozide in or on tomatoes; all the affected tolerances are listed in 40 CFR 180.246.

No public comments or requests for referral to an advisory committee were received in response to the notice of proposed rulemaking.

Therefore, based on the information considered by the Agency and discussed in detail in the March 4, 1987, proposal and in this final rule, the Agency is hereby (1) revoking the tolerances in 40 CFR 180.246 for the residues of daminozide in or on brussels sprouts, melons, peppers, and plums (fresh prunes), and (2) amending (reducing) the tolerance for residues in tomatoes.

Elsewhere in this issue of the **Federal Register**, the Agency has issued a related rule [OPP-300161A] which revokes or amends the food additive tolerances for residues of daminozide in dried prunes, concentrated tomato products, and dried tomato pomace.

Any person adversely affected by this rulemaking revoking the tolerances may, within 30 days after the date of publication of this regulation in the **Federal Register**, file written objections with the Hearing Clerk, at the address given above. Such objections submitted must specify the provisions of the regulation deemed objectionable and the grounds for the objections. If a hearing is requested, the objections must state the issues for the hearing. A hearing will be granted if the objections are supported by grounds legally sufficient to justify the relief sought.

This document has been reviewed by the Office of Management and Budget as required by section 3 of Executive Order 12291.

In order to satisfy requirements for analysis as specified by Executive Order 12291 and the Regulatory Flexibility Act, the Agency has analyzed the costs and benefits of the revocation of tolerances for this chemical. This analysis is available for public inspection in Room 236, CM #2, 1921 Jefferson Davis Highway, Arlington, VA.

Executive Order 12291

As explained in the proposal published March 4, 1987, the Agency has determined, pursuant to the requirements of Executive Order 12291, that the revocation of these tolerances will not cause adverse economic impacts on significant portions of U.S. enterprises.

Regulatory Flexibility Act

This rulemaking has been reviewed under the Regulatory Flexibility Act of 1980 (Pub. L. 96-354; 94 Stat. 1164, 5 U.S.C. 601 *et seq.*) and it has been determined that it will not have a significant economic impact on a substantial number of small businesses, small governments, or small organizations. The reasons for this conclusion are discussed in the March 4, 1987 proposal.

List of Subjects in 40 CFR Part 180

Administrative practice and procedure, Agricultural commodities, Pesticides and pests, Reporting and recordkeeping requirements.

Dated: July 17, 1987.

Victor J. Kimm,

Assistant Administrator for Pesticides and Toxic Substances.

Therefore, 40 CFR Part 180 is amended as follows:

PART 180—[AMENDED]

1. The authority citation for Part 180 continues to read as follows:

Authority: 21 U.S.C. 346a.

2. Section 180.246 is revised to read as follows:

§ 180.246 Daminozide; tolerances for residues.

(a) Tolerances are established for residues of the plant regulator daminozide [butanedioic acid mono (2,2-dimethylhydrazide)] in or on the following raw agricultural commodities:

Commodities	Parts per million
Cattle, fat	0.2
Cattle, mbyp	0.2
Cattle, meat	0.2
Cherries, sour	55
Cherries, sweet	30
Eggs	0.2
Goats, fat	0.2
Goats, mbyp	0.2
Goats, meat	0.2
Grapes	10
Hogs, fat	0.2
Hogs, mbyp	0.2
Hogs, meat	0.2
Horses, fat	0.2
Horses, mbyp	0.2
Horses, meat	0.2
Milk	0.02(N)
Nectarines	30
Peaches	30
Peanuts	30
Peanuts, hay	20
Peanuts, hulls	10
Pears	20
Poultry, fat	0.2
Poultry, kidney	2
Poultry, mbyp (except kidney)	0.2
Poultry, meat	0.2
Sheep, fat	0.2
Sheep, mbyp	0.2
Sheep, meat	0.2
Tomatoes	0.5

(b) Interim tolerances, to expire on the designated dates, are established for residues of the plant regulator daminozide [butanedioic acid mono (2,2-dimethylhydrazide)] in or on the following raw agricultural commodities:

Commodities	Parts per million	Expiration date
Apples	20	July 31, 1987.

[FR Doc. 87-16695 Filed 7-21-87; 8:45 am]

BILLING CODE 6560-50-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

43 CFR Public Land Order 6652

[CA-940-07-4220-10; CA-14340]

Withdrawal of National Forest System Land for Protection of an Administrative Site; California

AGENCY: Bureau of Land Management, Interior.

ACTION: Public Land Order.

SUMMARY: This order withdraws 30 acres of National Forest System land within the Klamath National Forest from the mining laws for 20 years for the protection of the Petersburg Administrative Site. The land has been and remains open to other forms of disposition which may be made of National Forest System land and to mineral leasing.

EFFECTIVE DATE: July 22, 1987.

FOR FURTHER INFORMATION CONTACT: Joan Mangold, BLM, California State Office, Federal Office Bldg., 2800 Cottage Way, Room E-2841, Sacramento, California 95825, 916-978-4815.

By virtue of the authority vested in the Secretary of the Interior by section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714, it is ordered as follows:

1. Subject to valid existing rights, the following described National Forest System land is hereby withdrawn from location and entry under the mining laws, 30 U.S.C., Chapter 2, but not from leasing under the mineral leasing laws, for protection of the Petersburg Administrative Site:

Mount Diablo Meridian

T. 38 N., R. 11 W.,
Sec. 34, E½E½SW¼SW¼,W½SE¼SW¼.
The area described contains 30 acres in Siskiyou County.

2. This withdrawal will expire 20 years from the effective date of this order, unless, as a result of a review conducted before the expiration date pursuant to section 204(f) of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1714(f), the Secretary determines that the withdrawal shall be extended.

3. The withdrawal made by this order does not alter the applicability of those public land laws governing the use of the National Forest System land under lease, license, or permit, or governing

the disposal of its mineral or vegetative resources other than under mining laws.

J. Steven Griles,

Assistant Secretary of the Interior.

July 14, 1987.

[FR Doc. 87-16670 Filed 7-21-87; 8:45 am]

BILLING CODE 4310-40-M

FEDERAL MARITIME COMMISSION

46 CFR Part 581

[Docket No. 86-6]

Service Contracts

AGENCY: Federal Maritime Commission.

ACTION: Final rule; correction.

SUMMARY: The Federal Maritime Commission is correcting errors in its final rule in Docket 86-6 Service Contracts which appeared in the Federal Register on June 26, 1987 (52 FR 23989).

FOR FURTHER INFORMATION CONTACT: Joseph C. Polking, Secretary, Federal Maritime Commission, 1100 L Street, NW., Washington, DC 20573, (202) 523-5725.

SUPPLEMENTARY INFORMATION: The following corrections should be made in the Commission's final rules in Docket No. 86-6 Service Contracts, published June 26, 1987 (52 FR 23989).

PART 581—[AMENDED]

1. In the statement of authority for Part 581 at page 24005, the reference to "46 U.S.C. 553" should read "5 U.S.C. 553."

§ 581.3 [Amended]

2. In § 581.3(a) and 581.3(a)(1)(i), at page 24006, the references to "Bureau of Tariffs" should read "Bureau of Domestic Regulation."

Please note that an additional correction to this document appears elsewhere in the Corrections Section of this issue.

Joseph C. Polking,

Secretary.

[FR Doc. 87-16583 Filed 7-21-87; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 21

[CC Docket No. 86-179; FCC 87-210]

Multipoint Distribution Service; Regulatory Classification

AGENCY: Federal Communications Commission (FCC).

ACTION: Final rule.

SUMMARY: Historically, the Multipoint Distribution Service (MDS) has been regulated as a common carrier service subject to the provisions of Title II of the Communications Act of 1934 and Part 21 of the Commission's rules. In *Multichannel Multipoint Distribution Service Second Report and Order*, 50 FR 5983 (February 13, 1985), the Commission stated its intent to examine the continued classification of MDS as a common carrier service in light of its finding that Multichannel MDS would be treated for purposes of lottery selection as a "media of mass communications" pursuant to 47 U.S.C. 309(i)(3)(C)(i). A Notice of Proposed Rulemaking (NPRM) was adopted on April 30, 1986 for this classification examination. This Report and Order adopts rules to effectuate the proposals made in the NPRM.

EFFECTIVE DATE: September 18, 1987.

ADDRESS: Federal Communications Commission, 1919 M Street, NW., Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Lynne Milne, Tele: 202-634-1856.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's *Report and Order* in CC Docket 86-179, FCC 87-210, Adopted June 10, 1987, and Released July 16, 1987.

The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, (202) 857-3800, 2100 M Street, NW., Suite 140, Washington, DC 20037.

Summary of Report and Order

1. In this *Report and Order (R&O)*, we are considering a proposal to permit each licensee the option to choose to provide MDS on a common carrier or non-common carrier basis. It is determined that the adoption of this regulatory approach for MDS will provide flexibility to an evolving communications industry, which will enhance the ability of MDS licensees to respond to market forces.

2. The "program origination" and "fifty percent" rules, 47 CFR 21.903(b)(1) and 21.903(b)(2), are eliminated as being unnecessary. MDS licensees who elect non-common carrier status will be subject to regulation pursuant to Part 21 of the Commission's Rules and the general provisions of Title III of the Communications Act of 1934, applicable to applicants for radio station licenses.

3. A MDS licensee is subject to a substantial amount of competition in both the market for distribution of video entertainment or the market for non-entertainment transmissions. MDS licensees who elect to provide service as common carriers are classified by this *R&O* as "non-dominant". Non-dominant regulation has two categories, streamlined regulation and a forbearance approach to regulation. Reflecting a concern about discontinuance of service by common carriers, it was noted by some commenters in this proceeding that disadvantages would arise from the adoption of a forbearance approach to regulation of MDS. We believe that for those licensees electing to remain common carriers, application of the streamline regulatory approach will strike an appropriate balance between the benefits of reduced MDS common carrier regulation and the protection of users from unacceptable dislocations.

4. This *R&O* also provides the procedures which must be followed by a MDS licensee to modify its status from common carrier to non-common carrier or from non-common carrier to common carrier. In response to a substantial amount of concern expressed in comments about the transition mechanism proposed in the NPRM in this proceeding, we modified the common carrier service discontinuance procedures so as to lessen the potential for disruptive impact upon end-users.

5. The Commission decided not to revisit the preemption issue for MDS. The Commission and the courts have previously addressed the preemption issue. And no specific state or local regulation was presented for consideration. In this *R&O*, we also refused to classify MDS as a "broadcasting" service. MDS is capable of providing non-entertainment services, as well as video entertainment services. In addition, this argument was given the consideration by the Commission in *Subscription Video*, 2 FCC Rcd 1001 (1987). We also declined the opportunity to make a reallocation of the common carrier point-to-point frequencies to non-common carriers. Sufficient need for such a reallocation was not demonstrated. Waiver requests will be granted as appropriate. Further, we decided to consider in a separate proceeding HBO's request, for elimination of the requirement that MDS licensees control decoders embodied in 47 CFR 21.903(b)(3) and 21.903(b)(4), in connection with HBO's waiver request on the same subject.

6. Pursuant to the Regulatory Flexibility Act of 1980, 5 U.S.C. 604, a final regulatory flexibility analysis has been prepared. It is available for public

viewing as part of the full text of this decision, which may be obtained from the Commission or its copy contractor.

7. The proposal contained herein has been analyzed with respect to the Paperwork Reduction Act of 1980 and found to have only a negligible effect on the information collection burden which the Commission imposed on the public. This proposed effect on the information collection burden is subject to approval by the Office of Management and Budget as prescribed by the Act.

Ordering Clauses

8. Authority for this rulemaking is contained in sections 4(i) and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. 154(i) and 303(r), and section 553 of the Administrative Procedure Act, 5 U.S.C. 553.

9. Accordingly, it is ordered that Part 21 of the Commission's Rules and Regulations is amended, effective September 18, 1987, as shown below. It is further ordered that this proceeding is terminated.

List of Subjects in 47 CFR Part 21

Communications common carriers, Communications equipment, Radio, Reporting and recordkeeping requirements, Television.

Rule Changes

Part 21 of Title 47 of the Code of Federal Regulations is amended as follows:

PART 21—DOMESTIC PUBLIC FIXED RADIO SERVICES

1. The authority citation for Part 21 continues to read as follows:

Authority: 47 U.S.C. 154, 303.

2. In § 21.0, paragraph (a) is revised to read as follows:

§ 21.0 Scope and authority.

(a) The purpose of the rules and regulations of this part is to prescribe the manner in which portions of the radio spectrum may be made available for the use of radio for domestic communication common carrier and multipoint distribution service non-common carrier operations which require transmitting facilities on land or in specified offshore coastal areas within the continental shelf.

* * * * *

3. In § 21.2, the definition of "multipoint distribution service" is revised to read as follows:

§ 21.2 Definitions.

As used in this part:

* * * * *

Multipoint distribution service. A one-way domestic public radio service rendered on microwave frequencies from a fixed station transmitting (usually in an omnidirectional pattern) to multiple receiving facilities located at fixed points.

* * * * *

4. In § 21.7, paragraphs (a) and (b) are revised to read as follows:

§ 21.7 Standard application forms for point-to-point microwave radio, local television transmission, multipoint distribution, and digital electronic message service.

(a) Authority to construct a new station, to modify an existing construction permit, or to modify licensed facilities. FCC Form 435 ("Application for New or Modified Microwave Radio Station Construction Permit Under Part 21") shall be submitted and granted for each station involved prior to commencement of any proposed station construction or modification, except for facility changes for which FCC Form 436 is prescribed in paragraph (c) of ths section.

(b) License to cover facilities constructed in accordance with Construction Permit. FCC Form 436 ("Application for a New or Modified Microwave Radio Station License Under Part 21") shall be filed:

(1) Prior to the expiration date of the construction permit (See § 21.34(a);

(2) Upon completion of construction or modification of a station in exact accordance with the terms and conditions set forth in the construction permit; and

(3) Upon satisfactory completion of equipment tests under § 21.212(a).

* * * * *

5. In § 21.11, paragraphs (a), (d), and (f) are revised to read as follows:

§ 21.11 Miscellaneous forms shared by all domestic public radio services.

(a) *Licensee qualifications.* FCC Form 430 ("Domestic Mobile Service, Domestic Public Fixed Radio Services, and Satellite Radio Licensee Qualification Report") shall be filed annually, no later than March 31 for the end of the preceding calendar year by licensees and permittees for each radio service (except for individual mobile subscribers to a common carrier service), if public service was offered at any time during the preceding year. Each annual filing shall include all changes of information required by Form 430 that occurred during the preceding year. In those cases where there has been no change in any of the required information the applicant, permittee, or licensee, in lieu of submitting a new form, may so notify the Commission by letter.

* * * * *

(d) *Assignment of permit or license.* FCC Form 702 ("Application for Consent to Assignment of Radio Station Construction Permit or License for Stations in Services Other than Broadcasting"), shall be submitted to assign voluntarily (as by, for example, contract or other agreement) or involuntarily (as by, for example, death, bankruptcy, or legal disability) the station authorization. In the case of involuntary assignment (or transfer of control) the application should be filed within 10 days of the event causing the assignment (or transfer of control). In addition, FCC Form 430 ("Domestic Mobile Service, Domestic Public Fixed Radio Services, and Satellite Radio Licensee Qualification Report") shall be submitted by the proposed assignee unless such assignee has a current and substantially accurate report on file with the Commission. Upon consummation of an approved assignment, the Commission shall be notified by letter on the date of consummation.

* * * * *

(f) *Transfer of control of corporation holding a permit or license.* FCC Form 704 ("Application for Consent to Transfer of Control"), shall be submitted in order to voluntarily or involuntarily transfer control (*de jure* or *de facto*) or a corporation holding any construction permits or linceses. In addition, FCC Form 430 ("Domestic Mobile Service, Domestic Public Fixed Radio Services, and Satellite Radio Licensee Qualification Report") shall be submitted by the proposed transferee unless said transferee has a current and substantially accurate report on file with the Commission. Upon consummation of an approved transfer, the Commission shall be notified by letter of the date thereof.

6. In § 21.31, paragraph (e)(6)(iv) is added to read as follows:

§ 21.31 Mutually exclusive applications.

* * * * *

(e) * * *

(6) * * *

(iv) The change of status by a MDS applicant from common carrier to non-common carrier, or from non-common carrier to common carrier.

7. In § 21.40, paragraph (a) is amended by revising the introductory paragraph to read as follows:

§ 21.40 Considerations involving transfer or assignment applications.

(a) The Commission will review a proposed transaction to determine if the

circumstances indicate "trafficking" in licenses or construction permits whenever applications (except those involving *pro forma* assignment or transfer of control) for consent to assignment of a construction permit or license, or for transfer of control of a permittee or licensee, involve facilities that were:

* * * * *

8. In § 21.44, paragraph (c) is revised to read as follows:

§ 21.44 Forfeiture and termination of station authorization.

* * * * *

(c) A special temporary authorization shall automatically terminate upon the expiration date stated therein or upon failure of the permittee or licensee to comply with any special terms or conditions set forth therein. Operation may be extended beyond such termination date only upon specific authorization by the Commission.

9. In § 21.100, paragraphs (d)(1), (4), (5), (8), (9), (10) and (11) are revised to read as follows:

§ 21.100 Frequencies.

* * * * *

(d) * * *

(1) Coordination involves two separate elements: notification and response. Both or either may be oral or in written form. To be acceptable for filing, all applications and major technical amendments must certify that coordination, including response, has been completed. The names of the applicants, permittees, and licensees with which coordination was accomplished must be specified.

* * * * *

(4) Response to notification should be made as quickly as possible, even if no technical problems are anticipated. Every reasonable effort should be made by all applicants, permittees and licensees to eliminate all problems and conflicts. If no response to notification is received within 30 days, the applicant will be deemed to have made reasonable efforts to coordinate and may file its application without a response.

(5) The 30-day notification period is calculated from the date of receipt by the applicant, permittee, or licensee being notified. If notification is by mail, this date may be ascertained by:

(i) The return receipt on certified mail,

(ii) The enclosure of a card to be dated and returned by the recipient, or

(iii) A conservative estimate of the time required for the mail to reach its destination.

In the latter case, the estimated date when the 30-day period would expire should be stated in the notification.

* * * * *

(8) Where subsequent changes are not numerous or complex, the applicant, permittee or licensee receiving the changed notification should make an effort to respond in less than 30 days. Where the notifying applicant, permittee or licensee believes a shorter response time is reasonable and appropriate, it may be helpful for him to so indicate in the notice and perhaps suggest a response date.

(9) If it is determined that a subsequent change could have no impact on some applicants, permittees or licensees receiving the original notification, it is not necessary to coordinate the change with such applicant, permittee or licensee. However, these applicants, permittees or licensees should be advised of the change and the opinion that coordination is not required for said change.

(10) Applicants, permittees and licensees should supply to all other applicants, permittees and licensees, or known applicants, within their areas of operations, the name, address and telephone number of their coordination representatives. Upon request from coordinating applicants, permittees and licensees, data and information concerning existing or proposed facilities and future growth plans in the area of interest should be furnished unless such request is unreasonable or would impose a significant burden in compilation.

(11) Applicants, permittees or licensees should keep other applicants, permittees and licensees, with which they are coordinating, advised of deletions or changes in plans for facilities previously coordinated. If applications have not been filed 6 months after coordination was completed, applicants, permittees and licensees may assume, unless notified otherwise, that such frequency use is no longer desired.

* * * * *

10. Section 21.119 is revised to read as follows:

§ 21.119 Limitations on use of transmitters for other services.

Transmitters licensed for operation in services governed by this part may not be concurrently licensed or used for non-common carrier communication purposes except in the Multipoint Distribution Service. However, mobile units may be concurrently licensed or used for non-common carrier communication purposes provided that the transmitter is type-accepted for use in each service.

11. Section 21.301 is revised to read as follows:

§ 21.301 National defense; free service.

Any common carrier or Multipoint Distribution Service non-common carrier authorized under the rules of this part may render to any agency of the United States Government free service in connection with the preparation for the national defense. Every such carrier or Multipoint Distribution Service non-common carrier rendering any such free service shall make and file, in duplicate, with the Commission, on or before the 31st of July and on or before the 31st day of January in each year, reports covering the periods of 6 months ending on the 30th of June and the 31st of December, respectively, next prior to said dates. These reports shall show the names of the agencies to which free service was rendered pursuant to this rule, the general character of the communications handled for each agency, and the charges in dollars which would have accrued to the carrier or Multipoint Distribution Service non-common carrier for such service rendered to each agency if charges for such communications had been collected at the published tariff rates.

12. In § 21.303, paragraphs (b) and (c) are revised to read as follows:

§ 21.303 Discontinuance, reduction or impairment of service.

* * * * *

(b) No station licensee subject to Title II of the Communications Act of 1934, as amended, shall voluntarily discontinue, reduce or impair public communication service to a community or part of a community without obtaining prior authorization from the Commission pursuant to the procedures set forth in Part 63 of this chapter or complying with the requirements set forth at § 21.910. In the event that permanent discontinuance of service is authorized by the Commission, the station licensee shall immediately give notification of the effective date thereof in writing to the Commission's Engineer in Charge of the radio district in which the station is located. In the event that permanent discontinuance of service is authorized by the Commission, the station licensee shall promptly send the station license to the Commission at Washington, DC 20554, for cancellation, except that Multipoint Distribution Service station licenses need not be surrendered for cancellation if the discontinuance is the result of a change of status by a Multipoint Distribution Service licensee

from common carrier to non-common carrier pursuant to § 21.910.

(c) Any station licensee, not subject to Title II of the Communications Act of 1934, as amended, who voluntarily discontinues, reduces or impairs public communication service to a community or part of a community shall give written notification to the Commission within 7 days thereof. In the event that service is permanently discontinued, the station licensee shall immediately give notification of the effective date thereof in writing to the Commission's Engineer in Charge of the radio district in which the station is located. In the event of permanent discontinuance of service, the station licensee shall promptly send the station license to the Commission at Washington, DC 20554, for cancellation, except that Multipoint Distribution Service station licenses need not be surrendered for cancellation if the discontinuance is the result of a change of status by a Multipoint Distribution Service licensee from non-common carrier to common carrier.

13. Section 21.900 is revised to read as follows:

§ 21.900 Eligibility.

Authorizations for stations in this service will be granted to existing and proposed communications common carriers and non-common carriers. Applications will be granted only in cases where it can be shown that:

(a) The applicant is legally, financially, technically, and otherwise qualified to render the proposed service;

(b) There are frequencies available to enable the applicant to render a satisfactory service; and

(c) The public interest, convenience and necessity would be served by a grant thereof.

The applicant shall submit a statement indicating whether service will be provided on a common carrier or a non-common carrier basis. In addition, a common carrier applicant shall submit a statement indicating whether there is any affiliation or relationship to any intended or likely subscriber or program originator. Any applicant for Multichannel Multipoint Distribution Service desiring a preference in the random selection process, in accordance with the procedures set out in § 1.824, shall so indicate as part of its application.

14. In § 21.902, paragraph (b) is amended by revising the introductory paragraph to read as follows:

§ 21.902 Frequency interference.

* * * * *

(b) As a condition for use of frequency in this service, each applicant, permittee and licensee is required to:

* * * * *

15. In § 21.903, paragraphs (a) and (b) are revised to read as follows:

§ 21.903 Purpose and permissible service.

(a) Multipoint Distribution Service stations are generally intended to provide one-way radio transmission (usually in an omnidirectional pattern) from a stationary transmitter to multiple receiving facilities located at fixed points. When service is provided on a common carrier basis, subscriber supplied information is transmitted to points designated by the subscriber. When service is provided on a non-common carrier basis, transmissions may include information originated by persons other than the licensee, licensee-manipulated information supplied by other persons, or information originated by the licensee. Point-to-point radio return links from a subscriber's location to a MDS operator's facilities may be authorized in the 18,580 through 18,820 MHz and 18,920 through 19,160 MHz bands. Rules governing such operation are contained in Subpart I of Part 21, the Point-to-Point Microwave Radio Service.

(b) Unless otherwise directed or conditioned in the applicable instrument of authorization, Multipoint Distribution Service stations may render any kind of communications service consistent with the Commission's rules on a common carrier or on a non-common carrier basis, provided that:

(1) Unless service is rendered on a non-common carrier basis, the common carrier controls the operation of all receiving facilities (including any equipment necessary to convert the signal to a standard television channel but excluding the television receiver); and

(2) Unless service is rendered on a non-common carrier basis, the common carrier's tariff allows the subscriber the option of owning the receiving equipment (except for the decoder) so long as:

(i) The customer provides the type of equipment as specified in the tariff;

(ii) Such equipment is in suitable condition for the rendition of satisfactory service; and

(iii) Such equipment is installed, maintained, and operated pursuant to the common carrier's instructions and control.

* * * * *

16. Section 21.907 is revised to read as follows:

§ 21.907 Transmission standards.

(a) A licensee assigned a 6 MHz channel must be able to provide one type of monochrome and color television service which complies with the VHF transmission standards set forth in § 73.682(a) of this chapter, except that the provision of § 21.906(b) shall replace the requirements of § 73.682(a)(14) of this chapter.

(b) A licensee assigned a 4 MHz channel must be able to provide one type of monochrome and/or color television service which complies with VHF transmission standards set forth in § 73.682(a) of this chapter, except that:

(1) The provision of § 21.906(b) shall replace the requirements of § 73.682(a)(14) of this chapter, and

(2) The requirements of § 73.682 (a)(1), (a)(2), (a)(3), (a)(4), (a)(5), (a)(9), (a)(19), and (a)(20) of this chapter shall not apply.

(c) In addition to the standard television transmission service specified in paragraphs (a) and (b) of this section, the licensee may offer a television service not meeting such standards if the tariff or contract clearly describes the type and quality of the service and distinguishes it from the standard service, and if the transmitter is type-accepted for such use.

(d) For services other than television, a licensee may provide transmissions as described in the tariff or contract if the authorized bandwidth is not exceeded and the transmitter is type-accepted for such use.

(e) In order to insure that transmitting information is not likely to be received in intelligible form by unauthorized subscribers or licensees, a licensee may vary the transmission standards specified in paragraphs (a), (b), and (c) of this section, provided that the encoded information is recoverable without perceptible degradation as compared to the same information transmitted in accordance with paragraphs (a), (b), and (c) of this section.

17. § 21.909 paragraph (b)(2)(i) is revised to read as follows:

§ 21.909 MDS response stations.

* * * * *

(b) * * *

(2) * * *

(i) The authorized call sign of the MDS station, the transmitter location number (assigned by the licensee in sequence of use beginning with number one) and the response station location coordinates.

* * * * *

18. Section 21.910 is added to read as follows:

§ 21.910 Special procedures for discontinuance, reduction or impairment of service by common carrier MDS licensees.

Any MDS licensee who has elected common carrier status and who seeks to discontinue service on a common carrier basis and instead provide service on a non-common carrier basis or who otherwise intends to reduce or impair service, shall be subject to the following procedures:

(a) The carrier shall notify all affected customers of the planned discontinuance, reduction or impairment. Notice shall be in writing to each affected customer unless the Commission authorizes in advance, for good cause shown, another form of notice. Notice shall include the following:

(1) Name and address of carrier;

(2) Date of planned service discontinuance, reduction or impairment;

(3) Points or geographic areas of service affected;

(4) Whether Single-channel or Multichannel Multipoint Distribution Service is the service affected; and

(5) The following statement:

The FCC will normally authorize this proposed discontinuance of service (or reduction or impairment) unless it is shown that end-users will be adversely affected thereby. Affected customers wishing to object should file objections within 45 days after receipt of this notification, and address them to the Domestic Radio Branch, Domestic Facilities Division, Federal Communications Commission, Washington, DC 20554, referencing the § 21.910 Application of (carrier's name). Comments should include specific information about the impact of this proposed discontinuance (or reduction or impairment) upon end-users, including any inability by the customer to acquire reasonable substitute service from another provider. The affected customer must state that it has provided a copy of the objection to the carrier seeking discontinuance.

(b) The carrier shall file with this Commission, or or after the date on which notice has been given to all affected customers, an application which shall contain the following:

(1) Caption—"Section 21.910 Application";

(2) Information listed in § 21.901(a) (1) through (4) above;

(3) Brief description of the dates and methods of notice of all affected customers;

(4) A statement of whether any customer has opposed the notice; and

(5) Any other information the Commission may require.

(c) The application to discontinue, reduce or impair service shall be automatically granted on the 76th day after its filing with the Commission without any Commission notification to the applicant unless an objection has been filed or the Commission has notified the applicant that the grant will not be automatically effective.

William J. Tricarico,

Secretary.

[FR Doc. 87-16627 Filed 7-21-87; 8:45 am]

BILLING CODE 6712-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

48 CFR Parts 301, 302, 304, 306, 319, 332 and 352

Acquisition Regulation; Administrative and Procedural Amendments

AGENCY: Office of the Secretary, HHS.

ACTION: Final rule.

SUMMARY: The Department of Health and Human Services is amending its acquisition regulation (48 CFR Chapter 3) to make numerous administrative and procedural changes to Subpart 319.8, Contracting with the Small Business Administration (The 8(a) Program), and to make several nomenclature changes.

EFFECTIVE DATE: July 22, 1987.

FOR FURTHER INFORMATION CONTACT: Ed Lanham, Procurement Analyst, Office of Procurement and Logistics Policy, telephone (202) 245-8901.

SUPPLEMENTARY INFORMATION: The Department is amending its acquisition regulation in the area of contracting with the Small Business Administration (SBA) under the 8(a) program. Several amendments are being made as a result of recently promulgated changes made by SBA to 13 CFR Part 124, as published on October 8, 1986 in the **Federal Register** (51 FR 36132-36155). Other amendments are being made as a result of comments received from departmental contracting activities requesting clarification and more definitive internal guidance concerning the areas of source selection, technical evaluation, and negotiation, which are addressed in § 319.870, Acquisition of technical requirements. Since this section comprises the greater portion of Subpart 319.8, the Department is publishing the entire subpart for ease of reference.

Nomenclature changes are being made in Parts 301, 302, 304, and 306 to reflect the recent reorganization within the Office of the Secretary, and another nomenclature change is being made in Part 306 to designate a replacement official as competition advocate for the National Institutes of Health. Several changes are being made to Part 332 to designate officials authorized to approve advance payments in the Public Health Service.

Part 352 is being amended to delete the "Rights in Data" contract clause (§ 352.227-1) because the Federal Acquisition Regulation was recently amended to add governmentwide coverage on rights in data (52 FR 18140-18156) that contained several clauses to be used in place of the referenced clause.

It is the policy of the Department of Health and Human Services to allow the public an opportunity to comment on proposed changes to the regulation when significant revisions are being made. However, the Department has determined that the amendments transmitted in this document are not significant revisions as defined in FAR § 1.501-1; that is, the revisions do not "alter the substantive meaning of any coverage in the FAR System having a significant cost or administrative impact on contractors or offerors, or a significant effect beyond the internal operating procedures of the issuing agency."

The Department of Health and Human Services certifies that this document will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et. seq.*); therefore, no regulatory flexibility analysis has been prepared. This document does not contain information collection requirements which require the approval of the Office of Management and Budget under the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et. seq.*).

The provisions of this regulation are issued under 5 U.S.C. 301; 40 U.S.C. 486(c).

List of Subjects in 48 CFR Parts 301, 302, 304, 306, 319, 332 and 352

Government procurement.

Accordingly, the Department amends 48 CFR Chapter 3 as set forth below.

Dated: July 14, 1987.

Henry G. Kirschenmann, Jr.,

Deputy Assistant Secretary for Procurement, Assistance and Logistics.

As indicated in the preamble, Chapter 3 of Title 48, Code of Federal Regulations, is amended as shown.

1. The authority citation for Parts 301, 302, 304, 306, 319, 332 and 352 continues to read as follows:

Authority: 5 U.S.C. 301; 40 U.S.C. 486(c).

PART 301—[AMENDED]

301.670-2 [Amended]

2. Section 301.670–2 is amended by revising paragraph (b) to read "Deputy Assistance Secretary for Administrative and Management Services, OS; and".

PART 302—[AMENDED]

302.100 [Amended]

3. Section 302.100 is amended as follows. Under the definition for "Principal official responsible for acquisition," replace the term "Office of Management Services (OMS–OS)," with the term "Office of Administrative and Management Services (OAMS–OS),". Also, in the list that follows the paragraph, remove "OMS—OS—Director, Division of Contract and Grant Operations, OMS—OASMB" and insert "OAMS–OS—Director, Division of Contract Operations".

PART 304—[AMENDED]

304.7101 [Amended]

4. Section 304.7101 is amended by making the following nomenclature change. In paragraph (c) under the heading "Office of the Secretary—Director, Division of Contract and Grant Operations, Office of Management Services," and insert "Director, Division of Contract Operations, Office of Administrative and Management Services".

PART 306—[AMENDED]

5. Section 306.501 is amended by revising the entries for "OS" and "NIH" to read as follows:

306.501 Requirement.

* * * * *

OS—Deputy Assistant Secretary for Administrative and Management Services.

* * * * *

NIH—(R&D)—Associate Director for Extramural Affairs (Other than R&D)—Associate Director for Intramural Affairs.

* * * * *

PART 319—[AMENDED]

6. Subpart 319.8 is revised to read as follows:

Subpart 319.8—Contracting With the Small Business Administration (The 8(a) Program)

319.801 General.

The signing of the contract document may be accepted as SBA's certification that SBA is competent to perform a specific HHS requirement.

319.803 Selecting acquisitions for the 8(a) program.

Brochures of 8(a) concerns which have been interviewed by the Office of Small and Disadvantaged Business Utilization (OSDBU) are forwarded to each small and disadvantaged business utilization specialist (SADBUS). These brochures are to be reviewed by the SADBUS to match HHS requirements with the capabilities of these concerns. The SADBUS will make the capabilities of these concerns known to program personnel and will obtain other information, as needed, by contacting OSDBU or the Small Business Administration (SBA).

319.870 Acquisition of technical requirements.

(a) *Source selection.* (1) SBA has ultimate responsibility for nomination of an 8(a) subcontractor for a proposed 8(a) requirement and may elect to deviate from usual source nomination procedures.

(2) Except for cases where SBA selects a concern for an 8(a) award, or as provided in paragraph (a)(3) below, limited technical competition shall be conducted for requirements for consulting services, computer science and related services, research, development, test, evaluation, demonstration, and technical and professional services, where technical aspects, methodology, or approach are of primary importance rather than price. Limited technical competition may be conducted on the basis of written technical proposals or oral technical discussions coupled with a review of the concerns' capability statements. (However, SBA encourages the submission of "open requirements" (requirements without source recommendations) so that assistance may be afforded to concerns having the greatest need. In particular, SBA has requested that requirements for CPA audit services be submitted as "open requirements" except where sole source offerings are appropriate (see paragraph (a)(3) below). SBA has also determined that the selection procedures outlined in the "Brooks Bill" must be utilized in the award of A & E requirements under the 8(a) program. Therefore, whenever feasible, at least three 8(a) A & E concerns shall be evaluated for each A & E acquisition. Further, to the extent feasible and practical, A & E contracts awarded under the 8(a) program shall be made to concerns which have their home office located in the metropolitan area or state where the work is to be performed.)

(3) There may be circumstances where one 8(a) concern has exclusive or predominant capability among 8(a) concerns by reason of experience, specialized facilities, or technical competence to perform the work within the time required. In these circumstances, after coordinating with the SADBUS, the initiating program office may recommend, for approval by the contracting officer, that only that 8(a) concern be considered for nomination to SBA. This recommendation shall be in writing, setting forth full and complete justification for the nomination. The justification shall be submitted to the appropriate contracting officer, through the SADBUS, for concurrence, and shall be maintained as a permanent record in the contract file. In addition, a copy of the justification shall be included in the offering letter to SBA.

(4) Where limited technical competition is required or is determined to be appropriate, the sources (i.e., concerns) which are to be included will be decided by the contracting activity in consultation with SBA. Consultation will be initiated by nomination of sources recommended by program officials and the SADBUS, and, if SBA elects, by SBA.

(5) Each 8(a) concern or group of concerns nominated for a specific 8(a) requirement shall have been approved by SBA for that particular requirement prior to any discussion with the concern(s) about the requirement.

(6) It is conceivable that limited technical competition will assist in the development of 8(a) concerns. However, contracting activities should recognize that to involve a large number of 8(a) concerns in a limited technical competition may have an adverse impact on the limited financial resources of these concerns. Usually, three to five concerns should be nominated, depending on the nature of the intended contract and subject to SBA's approval.

(b) *Offering letter.* (1) When a decision has been made by the SADBUS, program director, and contracting officer to process an acquisition through the Small Business Administration, under provisions of section 8(a) of the Small Business Act, the contracting activity shall promptly furnish the applicable SBA office a letter offering the acquisition to the SBA, with information copies to the SADBUS and OSDBU. The offering letter to SBA should transmit the following:

(i) A description of work to be performed or items to be delivered;

(ii) The names of the concerns nominated for technical competition or the name of the concern nominated for award. (For limited technical

competition, indicate whether or not written technical proposals are desired. If only one concern is nominated, a written justification must be included to substantiate limiting the nomination to one source, as indicated in 319.870(a)(3));

(iii) Contracting activity dollar estimate of the requirement;

(iv) Acquisition history (e.g., first time offered, items or services not presently being provided by a small business concern, etc.);

(v) Period of performance;

(vi) Any special requirements, restrictions, or geographical limitations (e.g., turn-around time demands a concern within two hours travel time, etc.);

(vii) A statement to the effect that public soliciation for the acquisition has not been issued for small business set-aside;

(viii) A statement to the effect that the acquisition cannot reasonably be expected to be won by an eligible 8(a) concern under normal competitive means;

(ix) Type of proposed contract (i.e., fixed-price, cost plus fixed-fee, requirements, etc.);

(x) A list of contractors who have performed on the specific requirement during the previous 12 months;

(xi) The applicable SIC code; and

(xii) The applicable DCIS product/service code.

(2) Within ten (10) business days after receipt of the offering letter, SBA is to acknowledge the offering letter and accept or reject the requirement. If SBA has not acknowledged the offering letter within this period, the contracting activity, after giving due regard to the urgency of the acquisition, may withdraw the offer by giving written notice to SBA.

(c) *Technical evaluation.* (1) When the concerns to be included in the limited technical competition have been determined by the contracting activity, in consultation with SBA, the contracting officer shall hold a technical competition among those concerns. Cost factors shall not be included in the technical proposals nor brought out in any manner during technical discussions of the proposals.

(2) When the limited technical competition is completed, a technical evaluation report shall be prepared and signed by the technical evaluators. The report shall indicate the ranking of the concerns, include a narrative evaluation specifying the strengths and weaknesses of each concern, and state any reservations or qualifications that might bear upon the selection of a source for negotiation and award. The technical evaluation report is required whether the limited technical competition was conducted on the basis of written technical proposals or oral technical discussions. The technical evaluation report shall be furnished the contracting officer and maintained as a permanent record in the contract file.

(3) The contracting officer shall send a letter to the SBA naming the highest rated concern and indicating the concern appears to have the capability to perform the requirement. The letter shall request authority to negotiate with the concern nominated for award, and include the title of the acquisition and the national buy number assigned by SBA. No other data need be furnished to SBA. Within ten (10) business days after receipt of the letter, the local SBA office will contact the contracting officer to arrange for contract negotiation. If a shorter response time is required, the contracting officer should notify SBA in the letter.

(d) *Negotiation.* (1) When requested by SBA, the contracting activity shall render all possible assistance to SBA with respect to SBA's negotiation of 8(a) subcontracts. However, SBA will usually delegate negotiation authority to the HHS contracting activity.

(2) The contracting officer has a greater latitude in holding a discussion with a concern solicited under an 8(a) acquisition than under a non-8(a) acquisition. Negotiation will normally proceed similarly to the process described in FAR 36.606. If agreement cannot be reached with the highest rated concern, or it is determined that the highest rated concern cannot furnish the required goods or services, or a concern would be unable to earn a profit if awarded the contract, both SBA and OSDBU will be notified, and, upon approval by SBA, negotiations will commence with the next highest rated concern. When extensive discussions with all sources fail to result in any acceptable proposals, the contracting officer will notify SBA. If within ten (10) business days, SBA has not notified the contracting officer of any additional sources or any methods of improving the existing source(s), the contracting activity will proceed with the acquisition without further regard for the 8(a) procedures, unless additional time is requested by SBA and the additional time is granted by the contracting activity after giving due regard to the urgency of the acquisition.

(3) After the conclusion of negotiations with the selected source, the contracting activity will prepare the contract between the contracting activity and SBA and the subcontract between SBA and the selected source. These documents will be prepared in accordance with FAR 19.809, and forwarded to SBA for signature. Contracting activities shall completely negotiate the 8(a) subcontract and prepare the definitive subcontract documents before submitting the prime contract to SBA for signature.

(e) *Delays.* The contracting officer is responsible for promptly notifying all offerors if an award is to be delayed beyond 30 days from the date of receipt of technical proposals. The contracting officer is also responsible for keeping the offerors informed of the situation if the delay persists or other problems arise which impede the award.

(f) *Debriefing.* Unsuccessful offerors shall be promptly notified of the contract award. A debriefing, when requested in writing, shall be provided by the cognizant contracting officer to an 8(a) concern that has been unsuccessful in an 8(a) limited technical competition.

(g) *Liaison with the Small Business Administration.* (1) Contracting activities will maintain a continuous liaison with the SBA to ensure that the overall goals of each activity are achieved. In the event there is a dispute between the contracting activity and an SBA representative regarding any aspect of 8(a) contracting, the contracting activity must promptly notify the OSDBU.

(2) The business development responsibility of SBA requires them to assist in and monitor the growth and development of all 8(a) concerns. Therefore, it is incumbent upon HHS to assist SBA in this effort by utilizing the source selection process in a manner that would make use of the largest possible number of 8(a) concerns.

(h) *Arriving at contract amount.* Contracts will be awarded at prices which are fair and reasonable (see FAR 19.805 and 19.806).

(i) *Advance payments.* 8(a) concerns requesting advance payments should be advised to submit the request to the SBA, in writing, in accordance with SBA operating procedures. SBA is responsible for reviewing and approving requests, and for making funds available, for advance payments under 8(a) contracts.

(j) *Contract modifications, inspections, etc.* The responsibility for subcontract administration and field inspection will, in most cases, be delegated by SBA to the contracting activity. The contracting activity may develop a tripartite agreement for execution by SBA, the 8(a) subcontractor, and the contracting activity instead of developing separate

modifications for the SBA contract and the 8(a) subcontract.

(k) *Subcontract administration.* Some concerns may need additional management expertise for optimal performance and completion of a particular contract. Therefore, when subcontract administration is delegated to HHS by SBA, the contracting activity shall promptly apprise the SBA, the SADBUS, and OSDBU whenever the contractor is experiencing problems. SBA should provide necessary technical assistance so the contractor can successfully complete the contract.

(l) *Contract termination.* The OSDBU, SADBUS, and SBA are to be notified prior to initiating final action to terminate an 8(a) contract.

PART 332—[AMENDED]

7. Section 332.402 is revised to read as follows:

332.402 General.

(e) The determination that the making of an advance payment is in the public interest (See FAR 32.402(c)(1)(iii)(A)) shall be made by the respective official listed in 306.501, except as follows. For OASH, the official shall be the Director, Office of Management, and for NIH, the official shall be the Associate Director for Administration.

332.407 [Amended]

8. Section 332.407 is amended by replacing, in the first sentence of paragraph (d), the words "listed in 306.501" with the words "referenced in 332.402(e)".

332.409-1 [Amended]

9. Section 332.409–1 is amended by changing the citation "306.501" to read "332.402(e)".

332.501-2 [Amended]

10. Section 332.501–2 is amended by replacing, in paragraph (a)(3), the words "listed in 306.501" with the words "referenced in 332.402(e)".

PART 352—[AMENDED]

352.227-1 [Removed]

11. Section 352.227–1 is removed.

[FR Doc. 87–16502 Filed 7–21–87; 8:45 am]

BILLING CODE 4150-04-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 661

[Docket No. 70845-7085]

Ocean Salmon Fisheries Off the Coasts of Washington, Oregon, and California

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Notice of inseason adjustments and request for comments.

SUMMARY: NOAA announces inseason adjustments to recreational ocean salmon management measures from Cape Falcon, Oregon, to the U.S.-Canada border. The Director, Northwest Region, NMFS (Regional Director), has determined in consultation with representatives of the Pacific Fishery Management Council (Council), the Oregon Department of Fish and Wildlife (ODFW), and the Washington Department of Fisheries (WDF), that a closure for chinook salmon in the subarea north of the Queets River and quota adjustments north of Cape Falcon are necessary to conform to the recreational chinook quota established in the preseason announcement of 1987 management measures. These actions are intended to slow the harvest of chinook salmon and extend the recreational seasons.

EFFECTIVE DATE: This notice is effective at 0001 hours local time, July 17, 1987. Comments on this notice will be received until July 31, 1987.

ADDRESSES: Comments may be mailed to Rolland A. Schmitten, Director, Northwest Region, NMFS, BIN C15700, 7600 Sand Point Way NE., Seattle, WA 98115–0070. Information relevant to this notice has been compiled in aggregate form and is available for public review during business hours at the same address.

FOR FURTHER INFORMATION CONTACT: Rolland A. Schmitten (Regional Director) at 206–526–6150.

SUPPLEMENTARY INFORMATION: Regulations governing the ocean salmon fisheries are codified at 50 CFR Part 661. Management measures for 1987 were effective on May 1, 1987 (52 FR 17264, May 6, 1987). The 1987 recreational fishery for all salmon species north of Cape Falcon, Oregon, is divided into three subareas. The recreational season in all three subareas began on June 28 and will continue through the earliest of either September 24, attainment of subarea chinook or coho quotas, or attainment of overall troll and recreational chinook or coho quotas for the area between Cape Falcon, Oregon, and the U.S.-Canada border.

The following recreational quotas for chinook and coho salmon were established for subareas north of Cape Falcon:

Subarea	Chinook quota	Coho quota
U.S.-Canada Border to Queets River (northern area)	2,500	26,100
Queets River to Leadbetter Point (central area	28,000	74,300
Leadbetter Point to Klipsan Beach; Red Buoy Line to Cape Falcon (southern area)	14,100	100,500

Based on the best available information, the recreational fishery in all three subareas is estimated to have caught a higher proportion of chinook than anticipated before the season. Most chinook off the Washington coast migrate from north to south, thus the problem of too high a proportion of chinook in the catch is most severe in the morthern area at this time.

In the northern area, an estimated 85 percent of the chinook quota but only 18 percent of the coho quota had been harvested through July 12. Closure of this subarea to the harvest of chinook salmon will extend the recreational season. In addition, representatives from all three subareas have agreed to a trade of chinook and coho among the subareas to extend the recreational season in the northern subarea.

Therefore, NOAA issues this notice to adjust the recreational salmon fisheries north of Cape Falcon, Oregon, by (1) changing the allowable species to be harvested in the subarea from the U.S.-Canada border to the Queets River to all salmon except chinook; and (2) modifying subarea quotas and follows:

Subarea	Revised chinook quota	Revised coho quota
U.S.-Canada Border to Queets River (northern area)	3,200	25,650
Queets River to Leadbetter Point (central area)	27,750	74,300
Leadbetter Point to Klipsan Beach; Red Buoy Line to Cape Falcon (southern area)	13,650	100,950

This notice does not apply to treaty Indian fisheries or to other fisheries which may be operating in this or other areas.

The Regional Director consulted with representatives of the Council, ODFW, and WDF regarding these inseason adjustments for the recreational fisheries north of Cape Falcon, Oregon. The ODFW and WDF representatives confirmed that Oregon and Washington will manage the recreational fisheries in State waters adjacent to these areas of the EEZ in accordance with this Federal action.

Other Matters

This action is authorized by 50 CFR 661.23 and is in compliance with Executive Order 12291.

List of Subjects in 50 CFR Part 661

Fisheries, Fishing, Indians.

(16 U.S.C. 1801 *et seq.*)

Dated: July 17, 1987.

Bill Powell,

Executive Director, National Marine Fisheries Service.

[FR Doc. 87-16655 Filed 7-17-87; 4:45 pm]

BILLING CODE 3510-22-M

Proposed Rules

Federal Register
Vol. 52, No. 140
Wednesday, July 22, 1987

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 59

Importation of Egg Products

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule; extension of comment period.

SUMMARY: On May 12, 1987, the Agricultural Marketing Service (AMS) published a proposed rule with request for comments in the **Federal Register** (52 FR 17763). The proposal would add The Netherlands to the list of countries from which egg products are eligible to be imported into the United States. AMS is extending the comment period to August 12, 1987, because an industry organization requested additional time to evaluate the proposed rule.

DATE: Written comments must be received on or before August 12, 1987.

ADDRESS: Written comments may be mailed to D.M. Holbrook, Chief, Standardization Branch, Poultry Division, Agricultural Marketing Service, U.S. Department of Agriculture, Room 3944, South Agriculture Building, Washington, DC 20250. Comments submitted on this proposed rule will be made available for public inspection in the Washington, DC. Standardization Branch during regular business hours.

FOR FURTHER INFORMATION CONTACT: Howard M. Magwire, Assistant Chief, Grading Branch, (202/447-3272).

SUPPLEMENTARY INFORMATION: On May 12, 1987, AMS published a proposed rule in the **Federal Register** (52 FR 17763) to amend the regulation for the mandatory inspection of eggs and egg products. The amendment would add The Netherlands to the list of countries from which egg products are eligible to be imported into the United States. Document reviews and onsite reviews of egg products inspection system operations indicate that the egg products inspection system of The Netherlands is adequate to assure, with respect to plants within The Netherlands preparing product for export to the United States, compliance with requirements applicable to official plants within the United States which prepare egg products. This revision will enable egg products from approved plants in The Netherlands to be imported into the United States. The comment period was originally scheduled to end on July 13, 1987. Since the publication of the proposed rule, an industry trade organization has requested additional time to evaluate the proposed rule and make comments. AMS has determined that there is sufficient justification for extending the comment period to August 12, 1987.

Done at Washington, DC, on July 16, 1987.

J. Patrick Boyle,

Administrator.

[FR Doc. 87-16605 Filed 7-21-87; 8:45 am]

BILLING CODE 3410-02-M

Farmers Home Administration

7 CFR Part 1951

Predetermined Amortization Schedule System (PASS) Account Servicing

AGENCY: Farmers Home Administration, USDA.

ACTION: Proposed rule.

SUMMARY: The Farmers Home Administration (FmHA) proposes to amend its Multiple Family Housing Servicing and Collections Accounting Procedure to implement administrative procedures regarding transfers of accounts and to implement amortization of recoverable costs through the Automated Multiple Housing Accounting System (AMAS). The intended effects of this action are to allow transfers to be more easily handled under AMAS and to reduce possible monetary defaults.

DATE: Comments must be submitted on or before September 21, 1987.

ADDRESSES: Submit written comments in duplicate to the Office of the Chief, Directives and Forms Management Branch, FmHA, Room 6348, South Agriculture Building, Washington, DC 20250. All written comments made pursuant to this notice will be available for public inspection during regular work hours at the above address.

FOR FURTHER INFORMATION CONTACT: Arlene Halfon, Senior Loan Officer, Multiple Family Housing Servicing and Property Management Division, Farmers Home Administration, USDA, Room 5329, South Agriculture Building, 14th and Independence Avenue, SW., Washington, DC 20250, telephone (202) 447-3187.

SUPPLEMENTARY INFORMATION:

Classification

This action has been reviewed under USDA procedures established in Departmental Regulation 1512-1, which implements Executive Order 12291, and has been determined to be nonmajor because there will not be an annual effect on the economy of $100 million or more; a major increase in cost or prices for consumers, individual industries, Federal, State, or local government agencies or geographic regions; or significant adverse effects on competition, employment, investment, productivity, innovation or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Environmental Impact Statement

This document has been reviewed in accordance with 7 CFR Part 1940, Subpart G, *Environmental Program.* It is the determination of FmHA that this action, consisting only of accounting changes, does not constitute a major Federal action significantly affecting the quality of the human environment, and, in accordance with the National Environmental Policy Act of 1969, Pub. L. 91-190, an Environmental Impact Statement is not required.

Intergovernmental Consultation

This program/activity is not subject to the provisions of Executive Order 12372 which requires intergovernmental consultation with State and local officials.

Programs Affected

These changes affect the following FmHA programs as listed in the Catalog of Federal Domestic Assistance:

10.405 Farm Labor Housing Loans and Grants.
10.415 Rental Housing Loans.

Regulatory Flexibility Act

The Administrator, Farmers Home Administration, USDA, has determined

that this action will not have a significant economic impact on a substantial number of small entities because it contains normal business recordkeeping requirements and minimal essential reporting requirements.

General Information

1. The Automated Multi-Housing Accounting System (AMAS) being used to process transfers of Predetermined Amortization Schedule System (PASS) accounts allows only accounts showing current (neither delinquent nor "Future Paid") to be transferred. If the account has had overpayments, advance regular payments or voluntary additional principal payments made, these payments are held in "Future Paid" status under AMAS. Provisions must be made for rolling back the account to current status in order to allow the transfer to take place.

2. Recoverable costs currently are charged to a borrower's account in a lump sum. In order to more effectively service borrowers' accounts, AMAS will allow recoverable costs to be amortized over a period not to exceed 5 years, thereby reducing the necessity of raising rental payments to cover the burden of bringing the account current after the lump sum payment has been made. The amortization period will be determined by the Servicing Official, but the recoverable cost should not be amortized for a longer period than the life of the benefit gained by the recoverable cost.

List of Subjects in 7 CFR Part 1951

Account servicing, Accounting, Loan programs—Agriculture, Loan programs—Housing and community development, Low and moderate income housing loans—Servicing, Mortgages.

Therefore, FmHA proposes to amend Chapter XVIII, Title 7, Code of Federal Regulations as follows:

PART 1951—SERVICING AND COLLECTIONS

1. The authority citation for Part 1951 continues to read as follows:

Authority: 7 U.S.C. 1989; 42 U.S.C. 1480; 5 U.S.C. 301; 7 CFR 2.23; 7 CFR 2.70.

Subpart K—Predetermined Amortization Schedule System (PASS) Account Servicing

2. Section 1951.504 is amended by redesignating current paragraphs (i) through (s) as paragraphs (k) through (u) and current paragraphs (c) through (h) as paragraphs (d) through (i), respectively, and adding new paragraphs (c) and (j) to read as follows:

§ 1951.504 Definitions and statements of policy.

* * * * *

(c) *Amortized recoverable costs.* Recoverable cost items may be amortized over a period up to 5 years. This function will allow the servicing official to voucher recoverable cost items such as taxes. When a borrower's taxes and other allowable costs are paid by voucher, the borrower's financial records should be carefully reviewed and a determination made concerning the length of the amortization schedule, but the recoverable cost should not be amortized for a longer period than the life of the benefit received from the vouchered cost.

* * * * *

(j) *Non-recoverable costs.* Payments charged to a loan program insurance fund by use of fund code.

* * * * *

§ 1951.507 [Amended]

3. In § 1951.507, paragraph (e)(1) is amended in the last sentence by removing the words "From _____ To _____," and inserting in their place the words "as of _____,".

4. Section 1951.510 is amended by redesignating current paragraphs (e)(5) through (e)(8) as paragraphs (e)(6) through (e)(9), respectively; revising paragraph (e)(4); and adding new paragraph (e)(5) to read as follows:

§ 1951.510 Payment application.

* * * * *

(e) * * *

(4) Amortized recoverable costs.

(5) Unamortized recoverable costs.

* * * * *

5. Section 1951.514 is revised to read as follows:

§ 1951.514 Recoverable and non-recoverable cost charges.

The District Director will service recoverable and non-recoverable cost items according to § 1951.514 of Subpart A of this part and Subpart P of Part 2024 which is available in any FmHA Office. (Recoverable and non-recoverable costs are defined in § 1951.504 of this subpart.)

6. Section 1951.518 is added to read as follows:

§ 1951.518 Determining current loan balances for transfer.

Transfers of all accounts, when the transferor has been coverted to PASS, must take place in a current loan status on the date of the transfer. Any delinquent principal and interest must be brought current. Overpayments and advance regular payments made on PASS accounts result in the creation of a "future paid" status account under AMAS. These advance payments must be reversed off and applied to the transferor's principal balance prior to determining the loan balance to be transferred. If the future payments have been made through rental assistance, they must be refunded to the transferor and reapplied in the form of cash on the loan balance.

Dated: April 16, 1987.

Eric P. Thor,

Acting Administrator, Farmers Home Administration.

[FR Doc. 87-16569 Filed 7-21-87; 8:45 am]

BILLING CODE 3410-07-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Summary Notice No. PR-87-7]

14 CFR Ch. I

Petitions for Rulemaking; Summary of Petitions Received and Dispositions of Petitions Denied or Withdrawn: Long Island Pilots Association (LIPA), et al.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice or petitions for rulemaking and of dispositions of petitions denied or withdrawn.

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for rulemaking (14 CFR Part 11), this notice contains a summary of certain petitions requesting the initiation of rulemaking procedures for the amendment of specified provisions of the Federal Aviation Regulations and of denials or withdrawals of certain petitions previously received. The purpose of this notice is to improve the public's awareness of this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of any petition or its final disposition.

DATES: Comments on petitions received must identify the petition docket number involved and be received on or before, September 2, 1987.

ADDRESSES: Send comments on the petition in triplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rules Docket (AGC-204), Petition Docket No. #____, 800 Independence Avenue, SW., Washington, DC 20591.

FOR FURTHER INFORMATION CONTACT: The petition, any comments received, and a copy of any final disposition are filed in the assigned regulatory docket and are available for examination in the Rules Docket (AGC-204), Room 916, FAA Headquarters Building (FOB-10A), Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 426-3644.

This notice is published pursuant to paragraphs (b) and (f) of § 11.27 of Part 11 of the Federal Aviation Regulations (14 CFR Part 11).

Issued in Washington, DC, on July 16, 1987.

Leonard Smith,

Manager, Program Management Staff.

PETITIONS FOR RULEMAKING

Docket No.	Petitioner	Description of the petition
25277	Long Island Pilots Association (LIPA)	Petitioner seeks to reduce the size of the regulatory airport radar service area (ARSA) to approximately a 5-mile radius inner core and a 7-mile radius outer core north of the south shore of Long Island. This ARSA requires only two-way radio communication to enter or operate in the ARSA.
25213	Arthur L. Klaastad	Petitioner suggests revising FAR Section 91.83(c)(1) to include words that "any airport may be designated as an alternate airport if the forecast weather conditions will permit descent from the minimum en route altitude, approach, and landing under basic visual flight rules."
25200	Association of Flight Attendents	To establish a new regulation 121.588 governing Passenger cabin service carts. The proposal seeks to limit the force needed to move a cart and the effort required to activate/deactivate the brake system, and to require continuing maintenance and testing of the cart.
25290	Department of Air Force	USAF request the realignment of restricted areas in the Englin AFS area to increase the availability of airspace for civil users. In addition, the USAF requests the inclusion of certain portions of the realigned restricted area, when not active, into FAR Part 93, Section 93.81, Special Air Traffic Rule Airspace.

PETITIONS FOR RULEMAKING: WITHDRAWN OR DENIED

Docket No.	Petitioner	Description and disposition of the rule requested
24520	Aviation Training Academy, Howard J. Fuller, Jr.	Petitioner petitioned for a rule change to FAR 27.1401(d) of the Federal Aviation Regulations (FAR) to include aviation white or an approved combination of aviation red and aviation red and aviation white for an anticollision light system required for night operation. *Denial:* March 18, 1987.
24942	Ronald E. Harbut, Ph. D	To amend the Federal Aviation Regulations Section 91.109(a), to reduce the maximum angle to 90 degrees at which two VFR aircraft at the same altitude could approach each other. *Denied:* April 23, 2987.
24897	Mr. Stephen B. Jordan	To establish Flight level intervals between FL 290 and FL 420 as follows: Westbound: FL300, FL330, FL360, FL390, FL420; Eastbound: FL290, 315, 345, 375, 405. *Denial:* December 19, 1986.

[FR Doc. 87-16579 Filed 7-21-87; 8:45 am]
BILLING CODE 4910-13-M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 649

[Docket No. 70744-7144]

American Lobster Fishery

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Proposed rule.

SUMMARY: NOAA issues this proposed rule to amend the final rule implementing the Fishery Management Plan for the American Lobster Fishery (FMP) by revising (1) the expiration date of fishing permits and (S) the numbering system used to identify lobster gear. The intended effects are to provide consistency with annual permitting procedures recently adopted in the Northeast Region, NMFS, and to relieve Federal Fishery Permit holders from the burden of having to renumber lobster gear when their Federal Fishery Permit Number changes.

DATE: Comments on the proposed rule are invited until August 6, 1987.

ADDRESS: Comments on the proposed rule should be sent to Richard H. Schaefer, Acting Regional Director, National Marine Fisheries Service, Federal Building, 14 Elm Street, Gloucester, MA 01930. Mark "Comments on American Lobster Regulatory Amendment" on the envelope.

FOR FURTHER INFORMATION CONTACT: Carol J. Kilbride, Resource Policy Analyst, 617-281-3600 extension 331.

SUPPLEMENTARY INFORMATION: The FMP was developed by the New England Fishery Management Council in consultation with the Mid-Atlantic Fishery Management Council, and is implemented under the Magnuson Fishery Conservation and Management Act by regulations appearing at 50 CFR Part 649.

All final regulations implementing management programs for the various fisheries under the jurisdiction of the Northeast Region contain a fishing permit requirement. In general, and permit remains ineffect until the owner or name of a vessel changes, or it is revoked or suspended. However, recently both the New England and the Mid-Atlantic Fishery Management Councils have revised the permit requirement in the Multispecies FMP and the Squid, Mackerel and Butterfish FMP, respectively, to specify that fishing permits are to be issued on an annual basis. The Councils believe that annual permits will provide a more accurate accounting of fishery participants and assist in monitoring the effectiveness of the FMPs.

The Northeast Region began to implement the annual permit requirements for those two fisheries during 1987. However, because fishermen generally participate in more than one fishery, the Region faces a potentially confusing situation by requiring annual fishing permits in only selected fisheries. To achieve a consistent regulatory burden throughout all fisheries, the Region decided to require a single annual permit that may be endorsed for specific managed fisheries.

Language contained in the FMP specifies that a permit is required to fish for American lobster; it is silent regarding the expiration date of such permit. The frequency of issuing fishing permits is an aspect of implementation which has been left to the administrative discretion of NOAA.

NOAA has determined that an annual permit requirement for the American lobster fishery is a reasonable measure.

This proposed rule would make all permits expire on December 31, or when the owner or the name of the vessel changes. Current regulations at § 649.21(a) require that all lobster gear be legibly and indelibly marked with either the vessel's Federal Fishery Permit Number, or the vessel's homeport's State marking requirements to ficilitate the indentification of lobster gear. Because of the nature of the resource, the majority of vessels fishing for lobster comply with State marking requirements. However, there are a small number of vessels that mark gear with their Federal Fishery Permit Number.

In the Northeast Region, the Federal Fishery Permit Number is a number within the NMFS permit file that is permanently assigned to a vessel, regardless of ownership. When a vessel, which is permitted in any of the regulated fisheries of this Region, changes ownership, a Federal Fishery Permit is issued to the new owner with the number that NMFS has permanently assigned to the vessel. Some lobstermen have encountered a problem with these permitting procedures, in that, if they change vessels, they now must renumber their gear with the NJFS-assigned vessel permit number to be in compliance with the regulations.

NOAA proposes to amend the final regulations by removing the language that requires lobster gear be marked with the Federal Fishery Permit Number, and substituting language that requires such gear to be marked with a number of assigned by the Regional Director. In almost all cases, the number will continue to be the Federal Fishery Permit Number.

NOAA believes that the unintended effect of the current regulation has the potential to impose an unnecessary burden on federally-permitted lobstermen. Therefore, NOAA has determined that this proposed rule is in keeping with the intent of the FMP, identification of lobster gear for enforcement purposes, while allowing relief for those few lobstermen who need it.

Classification

The Assistant Administrator for fisheries, NOAA, has determined that this rule is consistent with the Magnuson Fishery Conservation and Management Act and other applicable law.

This action is categorically excluded, by NOAA Directive 02-10, from the requirement to prepare an environmental assessment because the proposed regulatory measure will have no significant effect on the environment.

The Administrator of NOAA has determined that this rule is not a major rule requiring a regulatory impact analysis under Executive Order 12291. The current regulatory measures of the FMP and their impacts are not changed by this action.

The General Counsel of the Department of Commerce certified to the Small Business Administration that this proposed rule, if adopted, will not have a significant economic impact on a substantial number of small entities because minimum time is required for annual renewal of a permit, and the proposed gear marking regulation relieves a restriction. As a result, a regulatory flexibility analysis was not prepared.

The Assistant Administrator for Fisheries, NOAA, has determined that this rule does not directly affect the coastal zone of any State with an approved coastal zone management plan.

Information collection required for the vessel permit application has been approved by the Office of Management and Budget, under OMB Control Number 0648-0097, in accordance with the Paperwork Reduction Act.

List of Subjects in 50 CFR Part 649

Fisheries, Reporting and recordkeeping requirements.

Dated: July 16, 1987.

James E. Douglas, Jr.,

Deputy Assistant Administrator for Fisheries, National Marine Fisheries Service.

For the reasons set forth in the preamble, 50 CFR Part 649 is proposed to be amended as follows:

PART 649—[AMENDED]

1. The authority citation for Part 649 continues to read as follows:

Authority: 16 U.S.C. 1801 *et seq.*

2. In § 649.4, paragraph (d) is revised to read as follows:

§ 649.4 Vessel permits.

* * * * *

(d) *Expiration.* A permit expires on December 31, or when the owner or name of the vessel changes.

* * * * *

3. In § 649.21, paragraph (a)(1) is revised to read as follows:

§ 649.21 Gear identification, marking, and escape vent requirements.

(a) * * *

(1) A number assigned by the Regional Director; and/or

* * * * *

[FR Doc. 87-16656 Filed 7-21-87; 8:45 am]

BILLING CODE 3510-22-M

POSTAL SERVICE

39 CFR Part 111

Supplements to Second-Class Publications

AGENCY: Postal Service.

ACTION: Proposed rule.

SUMMARY: The purpose of this notice is to provide the mailing industry with an additional opportunity to furnish ideas and suggestions on the shape of future regulations on the use of supplements to second-class publications. This notice seeks to obtain mailers' comments on specific issues for which the Postal Service is seeking further guidance. In addition, substantive rules are proposed which would (1) guide the mailing of loose supplements with bound second-class publications when they are sent together under the same cover, (2) prescribe the proper manner of addressing copies of second-class publications which are enclosed in plastic wrappers with supplements, and (3) place limitations on the kind and amount of supplemental material that may be mailed with each second-class publication.

DATE: Comments must be received on or before September 7, 1987.

ADDRESS: Written comment should be mailed or delivered to the Director, Office of Classification and Rates Administration, U.S. Postal Service, 475 L'Enfant Plaza, West, SW., Washington, DC 20260-5360. Copies of all written comments will be available for inspection and photocopying between 9 a.m. and 4 p.m. Monday through Friday in room 8430, at the above address.

FOR FURTHER INFORMATION CONTACT: Kenneth H. Young, (202) 268-5321.

SUPPLEMENTARY INFORMATION: On September 4, 1986, the Postal Service published proposed amendments to the Domestic Mail Manual to broaden the general conditions under which publishers may include supplements in the regular issues of a newspaper or other periodical publication entered as second-class mail. 51 FR 31673 through 31674. That proposal generally broadened existing postal regulations. In particular, it permitted supplements packaged together with second-class periodicals within a plastic wrapper, or

polybag, to receive second-class rates and specified the manner of addressing and packaging for such materials.

Following comments from mailers and further study, the Postal Service on December 12, 1986, published a second proposal concerning supplements which specifically addressed the potential dangers to the favored status of second-class mail of the indiscriminate inclusion on materials with second-class publications. 51 FR 44801 through 44803. The rule proposed limits upon the use of supplements together with clarifying regulations and addressing rules similar to those proposed in the September proposal. The Postal Service received a number of adverse comments concerning some of the proposed limitations.

Bearing these comments in mind, the Postal Service remains concerned that changes are needed to protect the integrity of second-class mail for the benefit of all of its users. Second-class mail, currently and historically, enjoys a favored status in the postal rate setting process based upon its function in disseminating information. The foundation for this special status for second class can be undermined by the inclusion of indiscriminate forms of loose advertising matter and independent publications as second-class supplements. Certain matters relating to mail handling needs, which affect cost and rates as well a service, are also a concern.

In light of the comments received on the December 12 proposed rule, the Postal Service has extensively revised its previous proposal as discussed in detail below. To faciliate that discussion, each of the proposed regulations is arranged according to subject matter, with the following considerations addressed for each subject. The issues raised by commenters, the Postal Service's evaluation of the issue, and where appropriate, an explanation of the revisions to the appropriate December 12 proposed regulation. In several cases, problems are discussed concerning certain of the December proposed regulations, but no revisions are suggested. Instead, the Postal Service requests interested parties to provide alternative proposals and comments relating to specific conditions under which proposed regulations should or should not apply and has, in the interim, republished those parts of the December proposal. A complete set of the revised proposed regulations follow the discussion.

Page Limitation for Supplements Withdrawn

The Postal Service's December 12 proposal included a limitation on the number of pages of supplementary material permissible with each issue of a second-class publication. A large number of commenters opposed this rule arguing that this limitation would severely diminish advertising revenues of those publishers having second-class publications with a small number of pages or those having several advertisers who wish to advertise in a single issue of a publication. Since it would be difficult to administer such a regulation because the supplements could consist of pages considerably smaller than the publication and since it would create a hardship for some publishers, the language proposed as 425.42c in the December 12 notice is no longer under consideration

Limitations on Supplemental Material That May Be Mailed With Each Second-Class Publication

Definition

The December notice proposed a definition of a supplement on which mailers did not comment. That definition was general and may not have sufficiently described the special nature of a supplement. Consequently, we now propose a more complete definition to replace old proposed 425.41. The new 425.41 conforms more closely to the ordinary dictionary definition of a supplement.

"Supplement to" Indication

The December notice proposed that the words "Supplement to" followed by the name of the publication or the name of the publisher appear on all supplements. Many commenters opposed printing the endorsement because they receive preprinted supplements from national advertisers intended for distribution in many periodicals throughout the country. Publishers have indicated that these national advertisers do not wish to incur the expense of printing different variations of supplements for all the publications they use for distribution.

The Postal Service believes that the "Supplement to" endorsement is an important indication that the material is intended for distribution with the second-class publication and that consequently this endorsement should be retained in some form. To overcome the commenters' problem, the Postal Service proposes in 425.42(f) that only nonadvertising supplements be required to bear the endorsement "Supplement to" followed by the name of the publication or the name of the publisher. For advertising supplements, the Postal Service proposes in 425.45(d) that such endorsement be a recommended but voluntary identifying marking.

Size Limitation

The December notice would have required in 425.42(d) that the external dimensions of a supplement not exceed the external dimensions of the second-class publication. Such a rule would be helpful in handling the mail pieces. Commenters did not necessarily object to the concept of a size limitation; however, several believed the December proposal was too restrictive. Because the Postal Service believes some sort of size limitation is necessary, it is republishing the December rule. However, the Postal Service will consider an alternative size limitation which would satisfy processing needs and be more acceptable to mailers. Thus, commenters are requested to propose to the Postal Service any specific sizing standards they believe meet these goals.

Permit Imprints on Supplements

Proposed 425.42(e) of the December notice would have prohibited supplements from bearing a third-class mail permit imprint. Several commenters argued that this limitation would introduce unnecessary costs as well as inventory control problems for advertisers and others who mass produce material for both distribution as bulk third-class mail and as supplements to second-class publications. The Postal Service remains concerned about supplements bearing permit imprints because this is an indication that the supplement was not designed for distribution as second-class mail. Moreover, mail pieces with such supplements may be viewed as unaddressed mail or be treated as material of a different class of mail. To resolve this problem, the Postal Service has revised proposed 425.42(e) to require only that mailers prepare their mailings so that any permit imprint on a supplement would not be visible when the second-class publication and its supplements are handled in the mailstream. Assuming adoption of such a rule, commenters are asked also to suggest what action the Postal Service should take in instances of noncompliance, i.e., where a permit imprint is, in fact, visible.

Weight of the Supplements

The December notice proposed a rule which would have required that for bound publications the total weight of

the supplementary material not exceed 50 percent of the weight of the publication which it is supplementing. Although several commenters believed the requirement to be too restrictive at the 50 percent level, it appears there was no opposition in concept. Because the Postal Service believes that this is a good control mechanism to help maintain the distinction between second-class mail and other classes of mail, and that 50 percent is an appropriate, easily understandable cut-off level, proposed 425.442(c) republishes the same rule as in the December notice. However, the Postal Service welcomes proposals from the mailing industry and other interested parties about an alternative practical weight threshold for limiting the amount of supplementary material that can be included as part of an issue of a second-class publication.

List of Prohibited Items

The December notice proposed a regulation (proposed 425.46) that prohibited certain third-class and fourth-class materials as supplements mailable at second-class postage rates. The new proposed 425.46 intends the same effect but includes additional examples of prohibited items.

Addressing Regulations

The December proposal contained several sections concerning the proper addressing and packaging of second-class publications together with their supplements. These sections generally required that the second-class title of the publication be displayed on the addressed side of the mail piece and permitted the address of the combined package to appear upon a label carrier, a separate sheet of either paper or cardboard stock containing address information. The following section discusses these previously proposed sections as well as two new sections, proposed 452.1(h) which formally permits publishers of second-class publications to address receipts and orders for subscriptions and incidental First-Class Mail attachments and proposed 452.1(i) which prohibits the addressing of supplements.

The December notice proposed regulations permitting label carriers to be used to address a polywrapped piece containing a second-class publication and its supplement(s), and described the proper positioning and affixing of this label carrier. 452.1(g). One commenter stated that the positioning of the label carrier in the manner shown in Exhibit 425.6 was too restrictive and unnecessary. Another commenter suggested that the label carrier be allowed to show advertisements. Another urged that we allow label carriers to be placed on top of supplementary material. Another commenter suggested that label carriers which fall short of ¼ inch of the trim size of the publication need not be secured. Several commenters requested that subscription and renewal subscription information be allowed on label carriers. Finally, one commenter asked that we allow label carriers to be affixed outside the plastic wrapper (polybag). Easy postal handling of this material requires that the label carrier bear certain necessary information and be free of extraneous and distracting information. As a result, 452.1(g) has been rewritten for greater clarity and includes specific descriptions of the information which would be required to appear on the label carrier.

Finally, in the December notice, the Postal Service proposed a regulation (old 425.441(c)), that would have required publishers mailing supplements together with periodicals to ensure that the second-class periodical's title would be prominently displayed on the address side of the mail piece. Several commenters argued that this would be difficult when label carriers are to be used because current machinery places the heaviest piece (the second-class publication) at the bottom when it wraps a periodical and supplement within a polybag.

For mail handling reasons it is important that the title of the second-class publication and the address of the mail piece be on the same side of the mail piece. Knowing in all cases the relationship between the second-class publication and the address will help Postal Service employees quickly find the publisher's identification statement which contains the address to which change of address information is to be sent. This address placement serves two additional purposes. First, it distinctly identifies the second-class publication that is being mailed to which supplements are added. Second, it reinforces the integrity of second-class by subordinating the supplements enclosed. Moreover, placing an addressed label carrier next to the second-class publication and placing the supplement under that publication in a polybag is analogous to wrapping an unbound second-class publication around its supplements. Consequently, the Postal Service continues to believe that a rule similar to the previously proposed 425.441(c) is necessary and the new proposed 425.442(d) contains only minor editorial changes. The Postal Service would, however, welcome any other suggestions responsive to the concerns we have outlined.

General Regulations

Certain general regulations which the Postal Service published in the December notice received little or no opposition. For convenience and because certain clarifying changes are made, the Postal Service is republishing these regulations. They include the following proposed sections: Proposed 425.42 (a), (b), (c) and (g) which would describe the general conditions under which mailers may include supplements with the mailed copies of a regular issue of a second-class publication. Proposed 425.42(a) would require that supplements be germane to the issue. Proposed 425.42(b) would require that supplements be folded into the regular issue. Proposed 425.42(c) would requre that the advertising and nonadvertising content of a supplement be measured. As explained in the December notice, this section is necessary to apply the advertising limitations of 422.231 (no more than 75 percent advertising in more than half of the issues of a subscriber publication published during any twelve-month period) and 422.6(b) (no more than 75 percent advertising in any issue of a requester publication) to publications containing supplements. Proposed 425.42(c) has been modified from the December notice to refer to both nonadvertising and advertising content. Proposed 425.42(g) clarifies the intent of 425.42.

Other general and apparently noncontroversial regulations involve the mailing of supplements with bound periodicals. Proposed 425.441 would permit supplements to bound periodicals. Proposed 425.442 would describe the manner of packaging and securing supplements within a polybag or envelope. Minor clarifying changes have been made to this proposed rule as it appeared in December. The list of recommended methods of identifying supplements which appeared in the December notice is repeated with minor editorial changes as proposed 425.45(a–d). One significant change is the inclusion of 425.45(d) which would recommend that the words "Supplement to" followed by the name of the publisher appear on all advertising supplements. This rule had been proposed as a mandatory requirement in December for all supplements.

The last noncontroversial general regulations are proposed 425.43, 425.46(c), and 425.9. Proposed 425.43 would permit supplements to be included with copies of editions, and proposed 425.46(c) would require that

supplements mailed by themselves pay applicable third- or fourth-class rates of postage. Proposed 425.9 would change existing rules to permit loose supplements to be mailed with second-class publications provided the packaging rules of 425.44 are followed.

Although exempt from the notice and comment requirements of the Administrative Procedure Act (5 U.S.C. of 553(b), (c) regarding proposed rulemaking by 39 U.S.C. 410(a), the Postal Service invites public comment on the following proposed amendments of the Domestic Mail Manual, which is incorporated by reference in the Code of Federal Regulations. See 39 CFR 111.1.

List of Subjects in 39 CFR Part 111

Postal Service.

PART 111—[AMENDED]

1. The authority citation for 39 CFR Part 111 continues to read as follows:

Authority: 5 U.S.C. 552(a); 39 U.S.C. 101, 401, 403, 404, 3001–3011, 3201–3219, 3403–3406 3621, 5001.

2. Revise 425.4 to read as follows:

425.4 Supplements.

.41 Definition. A supplement is a separate group of one or more printed sheets devoted to a special subject or subjects, added to complete copies of a second-class newspaper or other periodical publication, and mailed at the second-class rates of postage. It may contain nonadvertising matter, advertising matter, or both. It may be identified as a supplement by placement or reference, having been omitted in the interest of space, time or convenience.

.42 *General Conditions.* Publishers may include supplements in the regular issue of a publication entered as second-class mail subject to the following conditions:

a. Supplements must be germane to the issue, having been omitted in the interest of space, time, or convenience.

b. Supplements must be folded and mailed with the regular issue.

c. The nonadvertising and advertising content of the supplement is included when determining the total percentage of nonadvertising matter in each issue.

d. The external dimensions of the supplement may not exceed the external dimensions of the second-class publication when presented for mailing.

e. The second-class publication and its supplements must be prepared so that no permit imprint will be visible to mail handling personnel.

f. Nonadvertising supplements must be endorsed "Supplement to" followed by the name of the publication or the name of the publisher.

g. The requirements pertaining to supplements may not be circumvented be designating them as pages, parts or sections.

.43 *Editions.* Supplements may be included in copies of editions, and a separate mailing statement must be filed for each edition.

.44 *Bound publications*

.441 Supplements to bound publications must be mailed under the conditions prescribed in .442 or be bound into the publications.

.442 Loose supplements may be mailed together with bound publications only when:

a. The combination is totally enclosed in an envelope, plastic wrapper (polybag) or paper wrapper; or

b. The combination is contained in a sleeve and the supplements are inserted within the pages of the publications and held in place by tension, or secured in such a manner that they will not be separated from the publications while in the mails.

c. The total weight of the supplementary materials does not exceed 50 percent of the weight of the publication which it is supplementing.

Note.—Mailed pieces in which the 50 percent limitation is exceeded will be charged with postage at the applicable third- or fourth-class rates for all loose supplements.

d. The address of the mail piece and the front cover of the second-class publication are on the same side of the package when a plastic wrapper or sleeve is used to mail a second-class publication and its supplement.

.45 *Identification.* It is *recommended (but not required)* that one or more of the following indicators be used to identify supplements in bound and unbound publications, in order to avoid possible misunderstandings about the material's qualification as a supplement:

a. Include the material in the pagination of the copies of the second-class publication.

b. List the materials in a table of contents, or elsewhere in the copies of the second-class publication.

c. Show the second-class title and or the date of issue in the foot- or date-lines of the material.

d. Show "Supplement to" followed by the name of the second-class publication or the name of the publisher on advertising supplements. See 425.42(f) for nonadvertising supplements.

.46 *Limitations.* As specific guidance, the following information may be used as examples of materials which cannot qualify as supplements to second-class publications. This is not an all-inclusive list.

a. Independent publications are ineligible as supplements. Examples include: (1) Third- or fourth-class materials such as paperback books, hardback books, and fourth-class catalogues, (2) publications owned or controlled by a publisher of an existing second-class publication and used essentially for the advancement of any other business or calling of those who own or control it, (3) publications containing an ISSN (International Standard Serial Number) or ISBN (Internatinal Standard Serial Number) or ISBN (International Standard Book Number), and (4) publications containing any of the following characteristics: their own masthead, stated frequency of issue, price, volume number or issue number.

b. Products and product samples are ineligible as supplements. Examples include: (1) Stationery (such as pads of paper, or blank printed forms), (2) cassettes, (3) floppy disks, (4) calendars, (5) merchandise samples, (6) swatches of materials, and (7) envelopes containing enclosures.

c. Supplements may not be mailed by themselves at the second-class rates of postage, but are subject to the applicable third- or fourth-class rates of postage according to weight. See 425.1.

3. In 425.9, revise .91 as follows:

425.9 Advertisments

.91 Integral part of the publication. Advertisements must be an intergral part of the publication. Advertisements must be permanently attached in bound publications except those prepared as loose supplements under the conditions prescribed in 425.442 a and b. Pagination is not required in periodicals. However, it is recommended that some or all pages of a periodical be numbered or allowed for in the pagination, in a manner which indicates that pages containing advertisements are an integral part of the publication, rather than an independent publication. Independent publications may not be inserted in periodicals as advertisments.

4. In 425.1, add new subsections g, h and i as follows:

452.1 General Addressing

* * * * *

g. Addresses, including address strips, may appear on a label carrier (card or paper stock) which must be placed directly on top of the front cover (the side bearing the title of the publication) which is enclosed in a plastic wrapper (polybag). The label carrier may bear only the following items of information: (1) *Second Class* (in the upper right corner of the address side); (2) Title of

the second-class publication; (3) Address to which the plastic wrapped package can be returned; and (4) Proper address correction service endorsement. The address may be positioned on the label carrier in the manner shown in Exhibit 452.6. To avoid problems in mail processing, label carriers which are not the same size as the publication must be attached to or secured in such a manner so as to prevent the label carrier from shifting inside the plastic wrapper.

h. Addresses, including strips, may appear on receipts and orders for subscriptions and incidental First-Class attachments when the receipts and orders for subscriptions and incidental First-Class attachments are securely affixed to the covers of the second-class publications.

i. A supplement mailed at the second-class postage rates may not be addressed.

An appropriate amendment to 39 CFR Part 111 to reflect these changes will be published if the proposal is adopted.

Fred Eggleston,

Assistant General Counsel, Legislative Division.

[FR Doc. 87-16651 Filed 7-21-87; 8:45 am]

BILLING CODE 7710-12-M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[A-4-FRL-3236-8; NC-018]

Approval and Promulgation of Implementation Plans; North Carolina; Revisions to Visible Emission Regulations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: On February 11, 1987, the North Carolina Division of Environmental Management submitted regulatory amendments for incorporation into their federally approved State Implementation Plan (SIP).

These changes were originally submitted to EPA on December 17, 1985. At that time the regulations did not have an effective date and the changes were returned to the State. Regulation 2D.0521, Control of Visible Emissions, is being amended to make it consistent with the approved federal reference method for measuring visible emissions, i.e., 40 CFR Part 60, Appendix A, Method 9. Regulation 2D.0508 deals with emissions from pulp and paper mills, and is being changed to become consistent with Method 9. Regulation 2D.0501, Compliance with emission control standards, incorporates Method 9 as the opacity method of reference to be used by State inspectors.

This notice proposes to approve these changes. After the comment period a final rule can be published making the amended regulation part of the federally approved SIP.

DATE: To be considered, comments must be received on or before August 21, 1987.

ADDRESSES: Comments should be addressed to Bob Peddicord at the Region IV EPA address below. Copies of the State's submittal is available for review during normal business hours at the following locations:

Air Quality Section, Division of Environmental Management, North Carolina Department of Natural Resources and Community Development, 512 North Salisbury Street, Raleigh, North Carolina 27611

Air Programs Branch, Region IV, U.S. Environmental Protection Agency, 345 Courtland Street, NE., Atlanta, Georgia 30365

FOR FURTHER INFORMATION CONTACT: Bob Peddicord of the Region IV EPA Air Programs Branch, at the above address, or telephone: (404) 347-2864 or FTS 257-2864.

SUPPLEMENTARY INFORMATION: On December 17, 1985, the State of North Carolina submitted three revisions to their State Implementation Plan (SIP). The revisions were adopted by the Environmental Management Commission on December 12, 1985, after a public hearing held on September 6, 1985. The changes to regulations 2D.0501, 2D.0508 and 2D.0521 were in respose to EPA's 1985 midyear audit comments. The audit indicated that the capcity method used in the regulation lacked the proper data reduction and certification techniques. To rectify this the state chose to make their method consistent with the approved federal reference method, i.e., Method 9. The original submittal's effective date was one year after quality assurance plans has been approved for the State's electric utility companies. This was unacceptable and the amendment to the regulations were returned. On Febraury 11, 1987, the State of North Carolina resubmitted the amendments with an effective date of August 1, 1987. EPA is proposing to approve the changes to all three regulations: 15 NCAC 2D.0501, 2D.0508 and 2D.0521.

2D.0501—Compliance With Emission Control Standards

This change incorporates Method 9 of Appendix A, 40 CFR Part 60 as the capcity method of reference to be used by State inspectors.

2D.0508—Control of Particulates From Pulp and Paper Mills

The amendment incorporates the procedures and standards of Method 9 into this section. The change is from a five-minute aggregate to a six-minute average without changing the opacity standard for pulp and paper mills. A second change alters the title of the section from "Control of Particulates . . ." to "Control of Emissions from Pulp and Paper Mills."

2D.0521—Control of Visible Emissions

The revisions in this Section incorporate the procedures and standards of Method 9 so that they may be applied to all sources. The change adopts the six-minute averaging period. The change was made without altering the opacity levels. Modeling to show compliance with NAAQS was not needed because the standards were not relaxed. The opacity levels in the regulation were converted from a five-minute aggregate basis to a six-minute average basis. This was done using the same method EPA used when switching from an aggregate to an average period.

The present regulation states that opacity may not exceed 40 percent for one class of sources or 20 percent for another class, except for five minutes in any one hour.

The proposed regulation converts the 5-minute aggregate levels to comparable levels based on a 6-minute average.

In the worst possible case with the present regulation, 5 consecutive minutes could be at 100 percent opacity, with the sixth minute at 40 percent opacity. The average opacity over the 6 minutes would then be $[(100\times5)+40)/6]=90$ percent opacity.

This 90 percent level is used in the proposed regulation as the maximum allowable level that may never be exceeded by an 6-minute average. The proposed regulation allows only one 6-minute average opacity over 40 percent in any one hour. During this period the opacity may not exceed the maximum, 90 percent, and such a period may not occur more than four times in a day.

The same was done with other class of sources and an 87 percent maximum 6-minute average was calculated. The same exemptions apply to this category as well.

(The 87 percent level could not be read directly because opacities can only be read at 5 percent intervals. However, since the average of several readings could turn out to be any number, and

not just numbers at 5 percent intervals, 87 percent is a legitimate level).

The changes are all in response to the 1985 midyear audit and correspond to the procedures of Method 9.

Proposed Action

EPA is proposing to approve the revisions to North Carolina's regulations 2D.0501, 2D.0508, and 2D.0521, submitted to EPA on February 11, 1987. These changes will make the State's regulations consistent with the approved federal method for measuring opacity.

All interested persons are invited to comment on this action; comments received within 30 days of the publication of this notice will be considered by EPA in the final rulemaking.

Under 5 U.S.C. 605(b), I certify that this SIP revision will not have a significant economic impact on a substantial number of small entities. (See 46 FR 8709.)

The Office of Management and Budget has exempted this rule from the requirements of section 3 of Executive Order 12291.

List of Subjects in 40 CFR Part 52

Air pollution control, Intergovernmental relations.

Authority: 42 U.S.C. 7401–7642.

Dated: May 11, 1987.

Lee A. DeHihns III,

Acting Regional Administrator.

[FR Doc. 87–16678 Filed 7–21–87; 8:45 am]

BILLING CODE 6560–50–M

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MM Docket No. 87–121]

Radio Broadcasting: Short-Spaced FM Station Assignments by Using Directional Antennas

AGENCY: Federal Communications Commission.

ACTION: Notice of Inquiry; extension of comment period.

SUMMARY: This action, requested by the Association of Federal Communications Consulting Engineers, extends the comment and reply comment period to August 31, 1987 and September 15, 1987, respectively, for the *Notice of Inquiry* in MM Docket No. 87–121 regarding FM Directional Antennas for short-spaced facilities. 52 FR 20430, June 1, 1987.

DATES: Comments are due August 31, 1987; reply comments are due September 15, 1987.

ADDRESS: Federal Communications Commission, Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Bernard Gorden, (202) 632–9660 or William B. Ericson, (202) 632–6302, Mass Media Bureau.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's *Order Granting Motion for Extension of Time for Filing Comments* adopted July 15, 1987, and released July 16, 1987. The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, Northwest, Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractors, International Transcription Service, (202) 857–3800, 1919 M Street, NW, Room 246, Washington, DC 20554.

Federal Communications Commission.

William H. Johnson,

Acting Chief, Mass Media Bureau.

[FR Doc. 87–16625 Filed 7–21–87; 8:45 am]

BILLING CODE 6712–01–M

47 CFR Part 73

[Gen. Docket No. 84–467; FCC 87–212]

Radio Broadcasting; Preparation for an International Telecommunication Union Region 2 Administrative Radio Conference for the Planning of Broadcasting in the 1605–1705 kHz Band

AGENCY: Federal Communications Commission.

ACTION: Notice of inquiry.

SUMMARY: The Commission reports on the results of the First Session of the Conference in April 1986 and seeks comments on the various international issues which will come before the Second Session of the subject conference. The issues cover a range of technical, planning and legal subjects.

DATES: Comments must be filed on or before September 8, 1987, reply comments on or before September 23, 1987.

ADDRESS: Federal Communications Commission, 1919 M Street, NW., Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Wilson A. LaFollette, Policy and Rules Division, Mass Media Bureau, (202) 632–5414.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's *Notice of Inquiry*, Gen Docket No. 84–467, adopted June 10, 1987 and released June 16, 1987.

The full text of this Commission decision is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, Northwest, Washington, DC. The complete text of this decision may also be purchased from the Commission's copy contractor, International Transcription Service, (202) 857–3800, 2100 M Street, Northwest, Suite 140, Washington, DC 20037.

Summary of Notice of Inquiry

1. In 1979 a World Administrative Radio Conference (WARC–79) allocated 100 kHz of new spectrum to the broadcasting service in Region 2 (the Western Hemisphere), thereby extending the upper end of the existing AM broadcasting band from 1605 kHz to 1705 kHz. WARC–79 made the use of the new spectrum by the broadcasting service subject to a plan to be developed by a Regional Administrative Radio Conference. The 1982 Nairobi Plenipotentiary Conference of the ITU scheduled this Regional Conference to be held in two sessions. The First Session, which focused on technical criteria to be applied to broadcasting in this band as well as on the method for planning the band was held in Geneva From April 14 to May 1, 1986. The Second Session is likely to be held in the Spring of 1988 at a time and place to be determined at the next ITU Administrative Council Meeting in Geneva during June of 1987.

2. Commission preparations for the First Session included the issuance of two *Notices of Inquiry* (see FCC 84–195 and FCC 84–644) to obtain full input regarding the possible technical standards and planning methods that might be employed in the expanded band. Through the record developed in response to the *Notices* as well as through various other preparatory efforts, the Commission was able to develop its recommendations for United States positions on the issues to come before the Conference. These recommendations were embodied in two *Reports* (see FCC 85–430 and FCC 86–98) issued by the Commission. Specifically, the Commission recommended that an allotment planning approach be used and that the technical standards to be applied to the new band should be consistent with those applied to the existing AM band. These recommendations were subsequently adopted by the Department of State for submission to the First Session of the Conference.

3. The U.S. proposals provided a foundation for much of the work of the

First Session, and U.S. views were followed in all major regards. This included technical standards, adoption of an allotment planning method and acceptance of a draft text for the agreement. Allotment planning will provide a flexible basis for the development of this new band, by providing allotments of channels to areas rather than to specific locations as would be the case with assignment planning. See the *Report to the Second Session of the Conference* for a full description of the results of the First Session.

4. As we approach the Secon Session, it is appropriate to seek public comment on the various international issues to come before it. Such comment will be essential to effective U.S. preparation for that meeting. The *Third Notice of Inquiry* details the specific areas where public views are needed, including the refinement of the allotment planning method adopted at the First Session of the Conference, the relationship between physical and electrical heights of antennas, inter-service sharing criteria, and the necessary revision to the draft agreement developed at the First Session to define the relationship between the allotments in the broadcast service and permitted services, fixed and mobile. Finally, international issues relating to Travelers Information Stations are discussed and comment on them is requested.

5. The FCC Industry Radio Advisory Committee will also consider the above issues during the coming months. Interested members of the public are invited to participate in the Advisory Committee meetings, which are announced in Public Notices issued by the Commission which are published in the **Federal Register.**

Comments

6. Pursuant to applicable procedures set forth in §§1.415 and 1.419 of the Commission's Rules, 47 CFR 1.415 and 1.419, interested parties may file comments on or before September 8, 1987 and reply comments on or before September 23, 1987. All relevant and timely comments will be considered by the Commission before final action is taken in this proceeding.

Federal Communications Commission.

William J. Tricarico,

Secretary.

[FR Doc. 87-16626 Filed 7-21-87; 8:45 am]

BILLING CODE 6712-01-M

47 CFR Part 74

[Docket No. 85-36]

Broadcast Services; Review of Technical and Operational Requirements for Aural Broadcast STL and ICR Stations and TV Low Power Auxiliary Stations; Corrections

AGENCY: Federal Communications Commission.

ACTION: Proposed rule corrections.

SUMMARY: The Commission issues corrections to the proposed rule changes published in the **Federal Register** 52 FR 21710, June 9, 1987 and is extending the comment and reply comment dates as a result of these corrections and in response to a motion filed by the Society of Broadcast Engineers.

DATES: Comments due August 21, 1987, reply comments due September 8, 1987.

ADDRESS: Federal Communications Commission Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Hank VanDeursen, Mass Media Bureau, (202) 632-9660.

SUPPLEMENTARY INFORMATION: Further Notice of Proposed Rule Making in MM Docket No. 85-36, FCC-176, released May 26, 1987, 52 FR 21710, June 9, 1987 (adopted May 4, 1987).

1. The proposed § 74.604(e) is corrected to read as follows:

§ 74.604 Interference avoidance.

* * * * *

(e) TV pickup stations operating on frequencies in the bands between 530-608 MHz and 614-806 MHz are subject to the following:

(1) Licensees shall notify the local BAS frequency coordinator of intended operations prior to commencing such operations. The licensee will supply information adequate and necessary for proper frequency coordination.

(2) When notified by the FCC Engineer in Charge or when the station becomes aware of complaints that its operation interferes with co-channel UHF TV stations, the UHF TV pickup station will promptly discontinue operation.

(3) Site locations shall be removed from full-power UHF TV co-channel stations by the at least the following distances unless otherwise authorized by the Commission: Zone I, 97 Km (60 Miles); and Zones II & III, 120 Km (75 Miles).

2. The omitted proposed change to § 74.655 revising paragraph (b), redesignating paragraph (f) as paragraph (g), and inserting a new paragraph (f) is corrected to read as follows:

§ 74.655 Authorization of equipment.

* * * * *

(b) Type acceptance or notification is not required for transmitters used in conjunction with TV pickup stations operating with a peak power not greater than 250 mW except that all TV pickup transmitters operating in the frequency bands between 530-608 MHz and 614-806 MH require type acceptance. Pickup stations operating in excess of 250 mW licensed pursuant to applications accepted for filing prior to October 1, 1980 may continue operation subject to periodic renewal. If operation of such equipment causes harmful interference, the FCC may require the licensee to take corrective action as necessary to eliminate the interference.

* * * * *

(f) Type acceptance for TV pickup transmitters operating in the frequency bands between 530-608 MHz and 614-806 MHz will be granted only upon a showing that visual and aural signals are incompatible with, and cannot be readily made compatible with consumer television receivers, VCRs, and similar consumer devices. Each transmitter shall include on its permanent label the following statement: "This unit requires a station license under the provisions of 47 CFR Part 74-F."

* * * * *

3. The omitted proposed change to § 74.682 adding a new paragraph (a)(4) to is corrected to read as follows:

§ 74.682 Station identification.

(a) * * *

(4) Continuous transmission of its own call sign by an automatic transmitter identification system using a transmission technology and format agreed upon by consensus of the users in the area of operation. An "identification subcarrier" with a maximum deviation of ±5 kHz and maximum offset of 5.8 MHz from the visual carrier will be permitted for this purpose in an FM video transmitter.

* * * * *

Federal Communications Commission.

William H. Johnson,

Acting Chief, Mass Media Bureau.

[FR Doc. 87-16590 Filed 7-21-87; 8:45 am]

BILLING CODE 6712-01-M

Notices

Federal Register
Vol. 52, No. 140
Wednesday, July 22, 1987

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Public Hearing Regarding the Extension of Tobacco Inspection and Price Support Services for a New Auction Market in Simpson County, KY, for the Sale of Types 22 and 23, Fire-Cured Tobaccos

Notice is hereby given of a public hearing regarding the extension of tobacco inspection and price support services for a new auction market to be located in Simpson County, Kentucky, for the sale of Types 22 and 23, Fire-Cured tobaccos.

Date: August 21, 1987.

Time: 9:30 a.m., local time.

Place: Simpson County Bank Meeting Room, West Cedar Street, Franklin, Kentucky.

Purpose: To hear testimony and to receive evidence regarding an application for tobacco inspection and price support services for a new auction market to be located in Simpson County, Kentucky, for the sale of Types 22 and 23, Fire-Cured tobaccos. The application was made by Mr. J. Terry Hansford of Waycross, Georgia, who is a warehouse proprietor in Franklin, Kentucky. This public hearing will be conducted pursuant to the joint policy statement and regulations governing the extension of tobacco inspection and price support services to new markets and to additional sales on designated markets (7 CFR 29.1—29.3).

Dated: July 16, 1987.

Kenneth A. Gilles,

Assistant Secretary for Marketing and Inspection Services.

[FR Doc. 87-16659 Filed 7-21-87; 8:45 am]

BILLING CODE 3410-02-M

COMMISSION ON CIVIL RIGHTS

State Advisory Committee Meeting; Nevada

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the Nevada Advisory Committee to the Commission will convene at 1:30 p.m. and adjourn at 3:30 p.m., on August 14, 1987, at the Alexis Park, 375 E. Harmon, Las Vegas, Nevada 89109. The purpose of the meeting is to plan activities and programming for the coming year.

Persons desiring additional information, or planning a presentation to the Committee, should contact Committee Chairperson, Elizabeth Nozero, or Philip Montez, Director of the Western Regional Division (213) 894-3437 (TDD 213/894-0508). Hearing impaired persons who will attend the meeting and require the services of a sign language interpreter, should contact the Regional Office at least five (5) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC, July 17, 1987.

Susan J. Prado,

Acting Staff Director.

[FR Doc. 87-16668 Filed 7-21-87; 8:45 am]

BILLING CODE 6335-01-M

State Advisory Committee Meeting; Nevada

Notice is hereby given, pursuant to the provisions of the Rules and Regulations of the U.S. Commission on Civil Rights, that a meeting of the Nevada Advisory Committee to the Commission will convene at 9:30 a.m. and adjourn at 2:30 p.m., on August 28, 1987, at the Board Room, Clark County School District, 2832 E. Flamingo Road, Las Vegas, Nevada. The purpose of the meeting is to gather information on the employment and upward mobility opportunities afforded minorities and women in the hotel/casino industry.

Persons desiring additional information, or planning a presentation to the Committee, should contact Committee Chairperson, Elizabeth Nozero, or Philip Montez, Director of the Western Regional Division (213) 894-3437, (TDD 213/894-0508). Hearing impaired persons who will attend the meeting and require the services of a sign language interpreter, should contact the Regional Office at least five (5) working days before the scheduled date of the meeting.

The meeting will be conducted pursuant to the provisions of the rules and regulations of the Commission.

Dated at Washington, DC, July 17, 1987.

Susan J. Prado,

Acting Staff Director.

[FR Doc. 87-16669 Filed 7-21-87; 8:45 am]

BILLING CODE 6335-01-M

DEPARTMENT OF COMMERCE

Agency Form Under Review by the Office of Management and Budget (OMB)

DOC has submitted to OMB for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: National Telecommunications and Information Administration (NTIA)

Title: Public Telecommunications Facilities Program Grant Application Form

Form Number: Agency—SF-424; OMB—0660-0003

Type of Request: Revision of a currently approached collection

Burden: 450 respondents; 56,250 reporting hours

Needs and Uses: NTIA administers the Public Telecommunications Facilities Program. Each year, a single grant cycle is conducted to review proposed projects and make grant awards which conform to the authorizing legislation. The information received is used to evaluate the grant proposals.

Affected Public: State or local governments; non-profit institutions

Frequency: Annually

Respondent's Obligation: Required to obtain or retain a benefit

OMB Desk Officer: Sheri Fox 395-3785

Copies of the above information collection proposal can be obtained by calling or writing DOC Clearance Officer, Edward Michals, (202) 377-3271, Department of Commerce, Room 6622, 14th and Constitution Avenue, NW., Washington, DC 20230.

Written comments and recommendations for the proposed information collection should be sent to Sheri Fox, OMB Desk Officer, Room 3235, New Executive Office Building, Washington, DC 20503.

Dated: July 16, 1987.

Linda Engelmeier,

Management Analyst, Office of Management and Organization.

[FR Doc. 87-16588 Filed 7-21-87; 8:45 am]

BILLING CODE 3510-CW-M

International Trade Administration

Short-Supply Review on Certain PVC-Coated Steel Wire; Request for Comments

AGENCY: Import Administration/ International Trade Administration, Commerce.

ACTION: Notice of request for comments.

SUMMARY: The Department of Commerce hereby announces its review of a request for a short-supply determination under Article 8 of the U.S.-EC Arrangement on Certain Steel Products, with respect to certain PVC-coated, galvanized, low-carbon steel wire.

DATE: Comments must be submitted on or before August 3, 1987.

ADDRESS: Send all comments to Nicholas C. Tolerico, Acting Director, Office of Agreements Compliance, Import Administration, U.S. Department of Commerce, Room 7866, 14th Street and Constitution Avenue NW., Washington, DC 20230.

FOR FURTHER INFORMATION CONTACT: Richard O. Weible, Office of Agreements Compliance, Import Administration, U.S. Department of Commerce, Room 7866, 14th Street and Constitution Avenue NW., Washington, DC 20230, (202) 377-0159.

SUPPLEMENTARY INFORMATION: Article 8 of the U.S.-EC Arrangement on Certain Steel Products provides that if the U.S. "* * * determines that because of abnormal supply or demand factors, the U.S. steel industry will be unable to meet demand in the USA for a particular product (including substantial objective evidence such as allocation, extended delivery periods, or other relevant factors), an additional tonnage shall be allowed for such product or products * * *."

We have received a short-supply request for certain PVC-coated, galvanized, low-carbon steel wire, in pattern laid coils, which will be used for the manufacture of gabions, mattresses and related products. The steel wire ranges from 2.2mm to 3.4mm in diameter, has a zinc coating not less than 260 to 290 g/m², a PVC coating thickness of 0.5mm with a minimum acceptable thickness of 0.45 mm, a coil core diameter of 18 to 32 inches and a coil weight of 500 to 1,000 kg.

Any party interested in commenting on this request should send written comments as soon as possible, and no later than August 3, 1987. Comments should focus on the economic factors involved in granting or denying this request.

Commerce will maintain this request and all comments in a public file. Anyone submitting business proprietary information should clearly identify the business proprietry portion of the submission and also provide a non-proprietary submission which can be placed in the public file. The public file will be maintained in the Central Records Unit, Room B-099, Import Administration, U.S. Department of Commerce at the above address.

Gilbert B. Kaplan,

Deputy Assistant Secretary for Import Administration.

July 15, 1987.

[FR Doc. 87-16652 Filed 7-21-87; 8:45 am]

BILLING CODE 3510-DS-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Establishment of Staged Entry for Certain Man-Made Fiber Textile Products Produced or Manufactured in the People's Republic of China

July 20, 1987.

The Chairman of the Committee for the Implementation of Textile Agreements (CITA), under the authority contained in E.O. 11651 of March 3, 1972, as amended, has issued the directive published below to the Commissioner of Customs to be effective on July 24, 1987. For further information contact Diana Solkoff, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377-4212. For information on the quota status of these limits, please refer to the Quota Status Reports which are posted on the bulletin boards of each Customs port or call (202) 566-6828. For information on embargoes and quota re-openings, please call (202) 377-3715. For information on categories on which consultations have been requested call (202) 377-3740.

Summary

In the letter published below, the Chairman of the Committee for the Implementation of Textile Agreements directs the Commissioner of Customs to stage entry of man-made fiber textile products in Categories 611 and 642, produced or manufactured in China and exported in excess of the restraint limits established for the twelve-month period July 24, 1986 through July 23, 1987. Categories 611 and 642 are currently embargoed.

Background

On July 23, 1986 a notice was published in the **Federal Register** (51 FR 26459) which announced the establishment of import restraint limits for certain man-made fiber textile products, including Categories 611 and 642, produced or manufactured in the People's Republic of China and exported during the twelve-month period which began on July 24, 1986 and extends through July 23, 1987, pending agreement on a mutually satisfactory solution concerning these categories between the Governments of the United States and the People's Republic of China. As an interim solution during consultations, the U.S. Government has decided to stage entry for a two-month period for Category 611 and a five-month period for Category 642 for goods exported in excess of the restraint limits established in the directive of July 18, 1986 (51 FR 26459) for Categories 611 and 642 for the twelve-month period which began on July 24, 1986 and extends through July 23, 1987.

The United States remains committed to finding a solution concerning these categories. However, should a solution not be reached during further consultations with the Government of the People's Republic of China, the U.S. Government reserves the right to extend the current restraint limits for Categories 611 and 642 for an additional twelve-month period, beginning on July 24, 1987 and extending through July 23, 1988. Further notice will be published in the **Federal Register.**

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on December 13, 1982 (47 FR 55709), as amended on April 7, 1983 (48 FR 15175), May 3, 1983 (48 FR 19924), December 14 1983 (48 FR 55607), December 30, 1983 (48 FR 57584), April 4, 1984 (49 FR 13397), June 28, 1984 (49 FR 26622), July 16, 1984 (49 FR 28754), November 9, 1984 (49 FR 44782), July 14, 1986 (51 FR 25386), July 29, 1986 (51 FR 27068) and in Statistical Headnote 5, Schedule 3 of the

Tariff Schedules of the United States Annotated (1987).

Ronald I. Levin,

Acting Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

July 20, 1987

Commissioner of Customs,
Department of the Treasury,
Washington, DC 20229.

Dear Mr. Commissioner: To facilitate implementation of the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement, effected by exchange of notes dated August 19, 1983, as amended, between the Governments of the United States and the People's Republic of China, I request that, effective on July 24, 1987, you permit entry for consumption, or withdrawal from warehouse for consumption, in the United States, of man-made fiber textile products in Categories 611 and 642, produced or manufactured in China and exported to the United States in excess of the restraint limits established for the twelve-month period which began on July 24, 1986 and extends through July 23, 1987 in each of the 30-day periods in the following amounts:

Category and period	Amount to be entered
611:	
Jul. 24 to Aug. 24	1,768,037 yd².
Aug. 25 to Sept. 23	1,768,037 yd².
642:	
Jul. 24 to Aug. 24	28,037 doz.
Aug. 25 to Sept. 23	28,037 doz.
Sept. 24 to Oct. 23	28,037 doz.
Oct. 24 to Nov. 23	28,037 doz.
Nov. 24 to Dec. 23	28,037 doz.

In carrying out the above directions, the Commissioner of Customs should construe entry into the United States for consumption to include entry for consumption into the Commonwealth of Puerto Rico.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553.

Sincerely,

Ronald I. Levin,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 87-16773 Filed 7-21-87; 8:45 am]

BILLING CODE 3510-DR-M

DEPARTMENT OF DEFENSE

Department of the Army

Closed Meeting of the Army Science Board Ad Hoc Subgroup for Ballistic Missile Defense Follow-on

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-643), announcement is made of the following Committee Meeting:

Name of the committee: Army Science Board (ASB).

Date of meeting: 12 and 13 August 1987.

Time of meeting: 0900-1600 hours, 12 August 1987, 0800-1500 hours, 13 August 1987.

Place: Crystal City, Arlington, VA.

Agenda: The Army Science Board Ad Hoc Subgroup for Ballistic Missile Defense Follow-On will meet for classified briefings and discussions reviewing matters that are an intergral part of or are related to the issues of the study effort. The subgroup is tasked with a comprehensive review of BMD requirements, technology, and specific critical issues impacting on program development. This meeting will be closed to the public in accordance with section 552b(c) of Title 5, U.S.C., specifically subparagraph (1) thereof, and Title 5, U.S.C., Appendix 1, subsection 10(d). The classified and unclassified matters to be discussed are so inextricably intertwined so as to preclude opening any portion of the meeting. The ASB Administrative Officer, Sally Warner, may be contacted for further information at (202) 695-3039 or 695-7046.

Sally A. Warner,

Administrative Officer, Army Science Board.

[FR Doc. 87-16636 Filed 7-21-87; 8:45 am]

BILLING CODE 3710-08-M

DEPARTMENT OF ENERGY

Economic Regulatory Administration

Consent Order; Trigon Exploration Co. Inc., et al.

AGENCY: Economic Regulatory Administration Department of Energy.

ACTION: Final action on proposed consent order.

SUMMARY: The Economic Regulatory Administration (ERA) has determined that a proposed Consent Order between the Department of Energy (DOE) and Trigon Exploration Company, Inc. (Trigon) and C. William Rogers (Rogers); Trigon and D. Bryon Ferguson (Ferguson); Trigon and Omni Drilling Partnership No. 1978-2 (Omni); and Trigon and Entex, Inc. (Entex) shall be made a final order of the DOE. The Consent Order resolves issues of compliance by Trigon and the working interest owners with the federal petroleum price and allocation regulations concerning the production and sale of crude oil from the A.D. LeBlanc No. 1 well during the period June 1979 through January 21, 1981. Entex, Inc. will pay to DOE the sum of $248,774.40; D. Bryan Ferguson and C. William Rogers will each pay the sum of $144,311.69; and Omni Drilling Partnership No. 1978-2 will pay the sum of $142,753.18, as prescribed in the Consent Orders. DOE will deposit these funds in a suitable account for appropriate disposition. The decision to make the Consent Orders final was made after a review of all written comments received.

SUPPLEMENTARY INFORMATION:

I. Introduction

ERA previously issued a notice announcing proposed consent orders between DOE and Trigon and Entex; Trigon and Rogers; Trigon and Ferguson; and Trigon and Omni which would resolve matters relating to compliance by Trigon, Entex, Ferguson, Rogers, and Omni with the federal petroleum price and allocation regulations concerning the production and sale of crude oil during the period June 1979 through January 21, 1981. 52 FR 19755 through 19756 (May 27, 1987). The proposed Consent Orders required Entex to pay the sum of $248,774.40 on or before the date of execution of its Consent Order. D. Bryan Ferguson and C. William Rogers each agreed to pay the sum of $60,129.87 on or before the date of execution of their respective Consent Orders and $84,181.82 two years from the date of execution of their respective Consent Orders. Omni Drilling Partnership 1978-2 agreed to pay $59,480.49 on or before the date of execution of its Consent Order and $83,272.69 two years from the date of execution of its Consent Order. The notice solicited written comments from the public relating to the terms and conditions of the settlement.

II. Comments Received

ERA received one comment, which addressed the question of the ultimate disposition of the funds to be paid by Entex, Ferguson, Rogers, and Omni pursuant to the settlement, but which did not question the basis of the settlement or the adequacy of the settlement amount. This comment was submitted by the Controller of the State of California. The Controller of the State of California stated that the refund should be distributed in accordance with the Modified Statement of Restitutionary Policy 51 FR 27899 (August 4, 1986), and the Final Settlement Agreement approved in the Department of Energy Stripper Well Exemption Litigation. M.D.L. 378 (D. Kan.).

The Consent Order contains no substantive determination as to the disposition of the funds paid under the Consent Order, ordering that the funds

be deposited in a suitable account for appropriate disposition. Nothing in the Consent Order is consistent with the Final Settlement Agreement, *supra*, or the Statement of Modified Restitutionary Policy, and ERA intends to petition for implementation of special refund procedures pursuant to 10 CFR Part 205, Subpart V to distribute the funds. The use of the Subpart V process is consistent with the Agreements and the Policy. Paragraph IV.B.4. of the Agreement contemplates that funds obtained by ERA will be submitted to the OHA and that OHA will set a 20 percent reserve. "[A]mounts in excess of the reserve shall be distributed [to the States and DOE] while awaiting the completion of the first state refund proceedings." *id.*, at paragraph IV.B.6. Accordingly, the comments by the Controller of California appear to be consistent with the intentions of DOE.

For the foregoing reasons, and for the reasons set forth in the Notice of the Proposed Consents Orders, ERA has decided to finalize the Consent Orders with Trigon and Entex; Trigon and Ferguson; Trigon and Rogers; and Trigon and Omni.

III. Decision

By this Notice, and pursuant to 10 CFR 205.199J, the proposed Consent Orders between DOE and Trigon and Entex; Trigon and Ferguson; Trigon and Rogers; and Trigon and Omni shall become final orders of the DOE. DOE will issue a notice to Trigon, Entex, Ferguson, Rogers, and Omni, and the Consent Orders shall become final upon delivery of that notice.

Marshall Staunton,

Administrator, Economic Regulatory Administration.

[FR Doc. 87-16667 Filed 7-21-87; 8:45 am]

BILLING CODE 6450-01-M

Office of Fossil Energy

Invitation for Public Views and Comments on the Conduct of the Innovation Clean Coal Technology Solicitation; Amendment to Notice of Meetings

AGENCY: Office of Fossil Energy, DOE.

ACTION: Amendment to notice of meetings; Invitation for public views and comments on the conduct of the innovative clean coal technology solicitation.

SUMMARY: On July 10, 1987, the United States Department of Energy (DOE), Office of Fossil Energy (FE), published in the **Federal Register** (52 FR 26124) a Notice of Meetings; Invitation for Public Views and Comments on the Conduct of the Innovative Clean Coal Technology Solicitation. The present Notice amends that Notice of Meetings as follows below..

MEETINGS, LOCATIONS, AND DATES: There will be four public meetings. The location of the meeting in St. Louis, Missouri, is amended as follows: Adam's Mark Hotel, 315 Chestnut Street, St. Louis, Missouri (Tel. 314-241-7400), at 9:00 a.m. on Thursday, September 3, 1987.

FOR FURTHER INFORMATION CONTACT: Mr. Jack S. Siegel, Deputy Assistant Secretary for Coal Technology, Fossil Energy, FE-20, GTN, U.S. Department of Energy, Washington, DC 20545, (301) 353-3991.

Issued in Washington, DC, July 17, 1987.

J. Allen Wampler,

Assistant Secretary Fossil Energy.

[FR Doc. 87-16638 Filed 7-21-87; 8:45 am]

BILLING CODE 6450-01-M

ENVIRONMENTAL PROTECTION AGENCY

[PP 4G2988/T542; FRL-3233-7]

Renewal of Temporary Tolerances; American Cyanamid Co.

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has renewed temporary tolerances for residues of the herbicide AC 222,293 [a mixture of m-toluic-acid(6-(4-isopropyl-4-methyl-s-oxo-2-imidazolin-2-yl)methyl ester) and p-toluic acid (2-(4-isopropyl-4-methyl-5-oxo-2-imidazolin-2-yl)methyl ester)] resulting from application of the sulfate salts in or on certain raw agricultural commodities.

DATE: These temporary tolerances expire June 3, 1988.

FOR FURTHER INFORMATION CONTACT:

By mail: Robert Taylor, Product Manager (PM) 25, Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460

Office location and telephone number: Room 245, CM#2, 1921 Jefferson Davis Highway, Arlington, VA, (703-557-1800).

SUPPLEMENTARY INFORMATION: On May 7, 1984, EPA granted temporary tolerances to the American Cyanamide Co., Agricultural Research Division, P.O. Box 400, Princeton, NJ 08540, for residues of the herbicide AC 222,293 [a mixture of m-toluic-acid(6-(4-isopropyl-4-methyl-s-oxo-2-imidazolin-2-yl)methyl ester) and p-toluic acid (2-(4-isopropyl-4-methyl-5-oxo-2-imidazolin-2-yl)methyl ester)] resulting from application of the sulfate salts in or on the raw agricultural commodities wheat, grain at 0.05 part per million (ppm), and barley, grain at 0.5 ppm. The temporary tolerances expired on May 7, 1985. These tolerances were renewed in response to pesticide petition PP 4G2988.

The company has requested a 1-year renewal of the temporary tolerances to permit the continued marketing of the above raw agricultural commodities when treated in accordance with the provisions of experimental use permit 241-EUP-109, which is being renewed under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) as amended (Pub. L. 95-396, 92 Stat. 819; 7 U.S.C. 136).

The scientific data reported and other relevant material were evaluated, and it was determined that a renewal of the temporary tolerances will protect the public health. Therefore, the temporary tolerances have been renewed on the condition that the pesticide be used in accordance with the experimental use permit and with the following provisions:

1. The total amount of the active herbicide to be used must not exceed the quantity authorized by the experimental use permit.

2. American Cyanamid Co. must immediately notify the EPA of any findings from the experimental use that have a bearing on safety. The company must also keep records of production, distribution, and performance, and on request make the records available to any authorized officer or employee of the EPA or the Food and Drug Administration.

These tolerances expire June 3, 1988. Residues not in excess of this amount remaining in or on the above raw agricultural commodities after this expiration date will not be considered actionable if the pesticide is legally applied during the term of, and in accordance with, the provisions of the experimental use permit and temporary tolerances. These tolerances may be revoked if the experimental use permit is revoked or if any experience with or scientific data on this pesticide indicate that such revocation is necessary to protect the public health.

The Office of Management and Budget has exempted this notice from the requirements of section 3 of Executive Order 12291.

Pursuant to the requirements of the Regulatory Flexibility Act (Pub. L. 96-354, 94 Stat. 1164, 5 U.S.C. 601 through

612), the Administrator has determined that regulations establishing new tolerances or raising tolerance levels or establishing exemptions from tolerance requirements do not have a significant economic impact on a substantial number of small entities. A certification statement to this effect was published in the **Federal Register** of May 4, 1981 (46 FR 24950).

Authority: 21 U.S.C. 346a(j).

Dated: July 7, 1987.

James W. Akerman,

Acting Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 87-16188 Filed 7-21-87; 8:45 am]

BILLING CODE 6560-50-M

[OPP-30000/43A; FRL-3236-4]

Captafol: Decision To Terminate a Special Review for Pesticide Products Containing Captafol

AGENCY: Environmental Protection Agency (EPA).

ACTION: Decision to terminate the special review of Captafol.

SUMMARY: On January 9, 1985, the Agency issued in the **Federal Register** (50 FR 1103) a notice initiating Special Review of captafol pursuant to 40 CFR 154.7(a). This action was based on data showing that captafol causes oncogenic effects in laboratory animals and is very highly toxic to fish. In response to registrant requests for voluntary cancellation of captafol product registrations, the Agency, in May of 1987, issued cancellation letters to registrants of captafol products. As there are no remaining registrations for captafol, the Agency has determined that a Special Review of captafol is not necessary at this time and is therefore terminating the Special Review with this Notice.

DATE: Comments must be received on or before August 21, 1987.

ADDRESS: Submit three sets of written comments, bearing the docket control number "OPP-30000/43A" by mail to:

Information Service Branch, Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460.

In person, bring comments to: Room 236, Crystal Mall Building #2, 1921 Jefferson Davis Highway, Arlington, VA.

FOR FURTHER INFORMATION CONTACT:

By Mail: Spencer Duffy, Special Review Branch, Registration Division (TS-767C), Office of Pesticide Programs, Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460

Office location and telephone number: Room 1020, Crystal Mall #2, 1921 Jefferson Davis Highway, Arlington, VA 22202 (703) 557-1529.

SUPPLEMENTARY INFORMATION:

I. Introduction

Captafol is a fungicide used for control of foliar and fruit diseases of certain fruits and vegetables and peanuts. It is also used for application to seeds of corn, cotton, peanuts, rice, and sorghum; to pineapple planting stock as a preplant treatment; and to wood as a preservative treatment.

Captafol was manufactured as a 97 percent technical solely by Chevron Chemical Company. Captafol was in 16 EPA registered products under section 3, in 19 products under section 24(c) of the Act and in intrastate product pending registrations under section 3 of FIFRA as amended September 30, 1978.

On January 9, 1985, EPA issued a Notice of Special Review (referred to as Position Document 1 of "PD-1") on pesticide products containing captafol (50 FR 1103). The Agency also issued on September 28, 1984 a Guidance Document for the reregistration of captafol products (referred to as the Captafol Registration Standard) which explained the basis for EPA's decision to start the Special Review and the terms and conditions for continuing registrations of captafol products. The Special Review was initiated as a result of EPA's determination, based on submitted studies, that captafol is oncogenic in rats and mice and is very highly toxic to fish. EPA has therefore determined that captafol met or exceeded the risk criterion in 40 CFR 154.7(a). However, since the initiation of the Special Review, registrants have voluntarily requested concellation of all product registrations. These cancellations were effective May 15, 1987, and therefore the Agency is terminating the Special Review.

II. Legal Background

In order to obtain a registration for a pesticide under the Federal Insecticide, Fungicide, and Rodenticide Act, as amended (FIFRA), an applicant for registration must demonstrate that the pesticide satisfies the statutory standard for registration. The standard requires, among other things, that the pesticide perform its intended function without causing "unreasonable adverse effects on the environment" (FIFRA section 3(c)(5)). The term "unreasonable adverse effects on the environment" is defined as "any unreasonable risk to man or the environment, taking into account the economic, social, and environmental costs and benefits of the use of any pesticide" (FIFRA) section 2(b). This standard requires a finding that the benefits of each use of the pesticide outweigh the risks of use, when the pesticide is used in compliance with the terms and conditions of registration or in accordance with commonly recognized practices.

The burden of proving that a pesticide satisfies the registration standard is on the proponents of registration and continues as long as the registration remains in effect. Under section 6 of FIFRA, the Administrator may cancel the registration of a pesticide or require modification of the terms and conditions of a registration whenever it is determined that the pesticide causes unreasonable adverse effects on the environment. The Agency created the Special Review process to facilitate the identification of pesticide uses which may not satisfy the statuory standard for registration and to provide an informal procedure to gather and evaluate information about the risks and benefits of these uses.

A Special Review is initiated if a pesticide meets or exceeds risk critreria set out in the regulations at 40 CFR Part 154. The Agency announces that a Special Review is initiated by issuing a notice for publication in the **Federal Register.** Registrants and other interested persons are invited to review the data upon which the review is based and to submit data and information to rebut the Agency's conclusions by showing that the Agency's initial determination was in error, or by showing that use of the pesticide is not likely to result in any significant risk to human health or the environment. In addition to submitting evidence to rebut the Agency's initial determination, commenters may submit relevant information to aid in the determination of whether the economic, social, and environmental benefits of the use of the pesticide outweigh the risks of use. After reviewing the comments received and other relevant material obtained during the Special Review process, the Agency makes a decision on the future status of registrations of the pesticide.

The Special Review process may be culminated in several ways depending upon the outcome of the Agency's risk/benefit assessment. If the Agency concludes that all of its risk concerns have been adequately rebutted, the pesticide registration will be maintained unchanged. If, however, all risk concerns are not rebutted, the Agency will proceed to a full risk/benefit assessment. In determining whether the

use of a pesticide poses risks which are greater than the benefits, the Agency considers possible changes to the terms and conditions of registration which can reduce risks, and the impacts of such modifications on the benefits of use. If the Agency determines that such changes reduce risks to the level where the benefits outweigh the risks, it may require that such changes be made in the terms and conditions of the registrations. Alternatively, the Agency may determine that no changes in the terms and conditions of a registration will adequately assure that use of the pesticide will not pose any unreasonable adverse effects. If the Agency makes such a determination, it may seek cancellation, and, if necessary, suspension. In either case, the Agency may issue a Notice of Intent to Cancel the registrations. If the Notice requires changes in the terms and conditions of registration, cancellation may be avoided by making the specified corrections set forth in the Notice, if possible. Adversely affected persons may also request a hearing on the cancellation of a specified registration and use, and if they do so in a legally effective manner, that registration and use will be continued pending a decision at the close of an administrative hearing. Similarly, adversely affected applicants for registration or interested persons with the concurrence of the applicant may request a hearing to contest denial of the application.

The three registrants with products containing captafol were: Chevron Chemical Company, Osmose Wood Preserving Inc., and the University of Hawaii. Each of the registrants have requested voluntary cancellations from the Agency. Chevron requested cancellation of its products in March of 1987 because of economic considerations. As Chevron was the sole manufacturer of the technical product, the remaining two registrants, Osmose and the University of Hawaii, requested in March and April, respectively, that their registrations be canceled. All three cancellations were effective May 15, 1987.

III. Summary of Risk Determinations

EPA has determined that captafol has been shown to be oncogenic in laboratory animals and very highly toxic to fish. Full discussions of the bases for these determinations were provided in the Guidance Document and the PD 1. The following is a summary of the oncogenic and wildlife effects.

A. Oncogenicity

The Agency based its risk finding of oncogenicity on positive studies in two rodent species. In a 2-year mouse study, dose-related oncogenic lesions where demonstrated in the middle and high dose groups and dose-related non-oncogenic lesions were demonstrated in all dose groups. In a 2-year rat feeding study, a dose-related increased incidence of fibroadenomas of the mammary gland and an increased incidence of neoplastic nodules in the liver was seen in females.

The data discussed above show that captafol is oncogenic for laboratory animals and therefore the Agency has classified captafol as a category B^2 (probable human carcinogen) under the Guidelines for Carcinogen Risk Assessment.

Using the linearized multi-stage quantitative risk extrapolation model, the Agency performed a preliminary risk assessment. Dietary and non-dietary risks based on the incidence of neoplastic liver lesions in female rats and lymphosarcomas in mice were estimated. The Q_1^* for neoplastic liver lesions in female rats was determined to be 5×10^{-2} $(mg/kg/day)^{-1}$ while the Q_1^* for lymphosarcomas in mice was determined to be from 5×10^{-3} to 5×10^{-2} $(mg/kg/day)^{-1}$ depending upon the sex and number of dose groups used. The Agency selected the Q_1^* 5×10^{-2} $(mg/kg/day)^{-1}$ to calculate risks.

In conducting the risk assessment from dietary exposure, the Agency assumed a uniform distribution of treated crops among the U.S. population, an average daily consumption of those crops by individuals, and residues at 100 percent of tolerance levels. These assumptions were used because of an incomplete data base for crop residue data. Based on these assumptions, the Agency estimated an upper bound excess lifetime cancer risk of 10^{-4} from dietary exposure.

The Agency also estimated non-dietary risk to mixer/loaders and applicators. Because of the lack of captafol-specific exposure data, the Agency assumed 100 percent dermal penetration and used surrogate data from many pesticides with similar use patterns to estimate worker exposure. The preliminary risk estimates resulted in a risk ranging from 10^{-6} to 10^{-2}. Based on these risk estimates for workers, the Agency imposed through the Guidance Document the requirements of protective clothing, restricted use classification, and a label warning concerning tumors in an effort to reduce the risk to workers.

Following issuance of the Guidance Document in September 1984, the Agency reviewed newly submitted data from dermal penetration and worker exposure studies. The dermal penetration study was conducted by applying technical captafol and a formulated captafol product to the skin of male rats. The results indicated that very little was absorbed. The absorption rate was approximately 0.1 percent per hour.

Data from the captafol worker exposure study were not used by the Agency in its exposure reassessment because the sample size in that study was too small to produce reliable results. The Agency is confident that its surrogate data, which are based on many studies involving a large sampling of individuals, is a reliable basis upon which to estimate worker exposure to captafol. It is worth noting, however, that the exposure values from the captafol study were generally consistent with the Agency's estimates based on its surrogate data.

Subsequent to issuance of the PD 1, the Agency recalculated the Q_1^* and confirmed that 5×10^{-2} $(mg/kg/day)^{-1}$ as the best estimate. The document that discusses this recalculation is available in the Public Docket. The Agency recalculated the risk to workers using the dermal absorption rate of 0.1 percent per hour. The results of this calculation showed an upper limit of excess lifetime cancer risk for workers ranging from 10^{-8} to 10^{-4}. The risk calcualted for the most common application method is 10^{-5}. The requirement for protective clothing reduces this risk to workers by almost another order of magnitude.

B. Wildlife

As a basis for the determination that captafol met the risk criteria for ecological effects, the Agency reviewed several valid ecological studies which characterize captafol as very highly toxic to fish. Using captafol, the median lethal concentration which kills 50 percent of the test organisms (LC_{50}) after 96 hours ranged from 0.045 to 0.230 parts per million (ppm) for bluegill sunfish and 0.027 to 0.190 ppm for rainbow trout. These data demomstrate that captafol is very highly toxic to fish.

As a result of this toxicity, the Agency was concerned about the effect of captafol on fish as a result of drift and/or runoff from application to cranberries and citrus.

The Agency expressed concern with captafol's use practices in cranberry

bogs presenting a hazard to fish. In particular applications by means of irrigation could contaminate adjacent bodies of water, and flooding of bogs after captafol application could result in dislodged residue in nearby water. Biological monitoring studies in New Jersey detected fish kills after the application of captafol. Monitoring studies to identify possible cause/effect relationships are not available.

C. Risk Reduction Measures and Regulatory Status

Because of these and other concerns, the Agency proposed the following product label changes in the Guidance Document. These changes included:

1. "Restricted Use" classification.
2. A tumor warning statement.
3. Protective clothing requirement.
4. Prohibition against the use of water, for irrigation purposes, which has been contaminated with captafol from treatment of cranberry bogs, rice fields (seed treatment) and wetland taro fields on any crop that is not registered for captafol usage.
5. Additional environmental labeling.
6. An interim 24-hour reentry interval.
7. Rotational crop restriction.
8. Specific greenhouse application procedures.

The Agency also required the generation and submission of additional data to support continued registration and to address the oncogenic and aquatic toxicity concerns. These data requirements included residue chemistry studies, additional oncogenicity data, and acute toxicity data for estuarine and marine organisms.

Also, in September of 1986 the Agency was notified by Chevron Chemical Corporation, the primary captafol registrant, that it had voluntarily initiated another mouse oncogenicity study. Chevron was prompted to do this additional study because of a Japanese study (N. ITO e. al. Carcinogenicity of Captafol in B6C3F$_1$ Mice. Gann. 75, 853–865; October, 1984.) that showed captafol causes tumors in several internal organs, including the heart, of laboratory animals. This study raised concerns with the Agency, the registrant, and the World Health Organization, which banned the use of captafol on all food crops. Because of Chevron's interest in the Japanese study and captafol's oncogenicity, the Agency formally issued a Data Call-In Notice, under section 3(c)(2)(B) of the FIFRA, requiring the submission of the results of this additional study volunteered by Chevron by October 31, 1989.

IV. Response to Comments Received on Initiation of Special Review

The Agency received one comment from the Chevron Chemical Company on the initiation of the Special Review for captafol. The comment, regarding captafol's oncogenic potential was addressed by the Agency through a Peer Review document and Addendum, dated April 10, 1987 and May 19, 1987, respectively. This document is available for review in the Public Docket. The Agency concluded that the comment did not provide an adequate basis for altering its views regarding the oncogenicity of captafol.

V. Agency's Decision Regarding Special Review

Subsequent to the initiation of the Special Review and the issuance of the PD 1, all registrants of captafol voluntarily canceled their registrations. Since there are no active registrations for captafol, and the sale of existing stocks of captafol in the United States is allowed only until December 31, 1987, the Agency has determined that it will terminate the Special Review of captafol at this time.

The risk resulting from use of existing stocks until December 31, 1987, is within the normal scope of use and risks. If the products had not been canceled and the Special Review would have continued to completion, the products would have been on the market for a longer time period.

VI. Public Comment Opportunity

The Agency is providing a 30-day period to comment on this Notice. Comments must be submitted by August 21, 1987. All comments and information should be submitted in triplicate to the address given in this Notice under *Address.* The comments and information should bear the identifying notation OPP–30000/43A.

The Agency has established a public docket (OPP–30000/43A) for the termination of the Special Review. This public docket will include this Notice; any other Notices pertinent to the Agency's decision regarding the termination of the Special Review of captafol; non-CBI documents and copies of written comments or other materials submitted to the Agency in response to the initiation of the Special Review, and a current index of materials in the public docket.

Dated: July 14, 1987.

Victor J. Kimm,

Acting Assistant Administrator for Pesticides and Toxic Substances.

FR Doc. 87–16532 Filed 7–21–87; 8:45 am]

BILLING CODE 6560–50–M

[DW–8–FRL–3235–8]

Water Pollution Control; Utah Application to Administer the National Pollutant Discharge Elimination System (NPDES) Program; Utah

AGENCY: Environmental Protection Agency (EPA).

ACTION: Approval of Utah's application to administer the National Pollutant Dishcharge Elimination System (NPDES) program.

SUMMARY: On July 7, 1987, the Regional Administrator for the Environmental Protection Agency (EPA), Region 8, approved the Utah Bureau of Water Pollution Control (UBWPC) request to administer the National Pollutant Discharge Elimination System (NPDES) program within the State.

FOR FURTHER INFORMATION CONTACT: Patrick J. Godsil, Chief, Compliance Branch (8WM–C), (303) 293–1623, at FPA, Region 8, 999 18th Street, Suite 500, Denver, Colorado 80202–2405.

SUPPLEMENTARY INFORMATION: The Clean Water Act (33 1251 *et seq.*) established the National Pollutant Discharge Elimination System (NPDES) program under which permits are issued for the discharge of pollutants from point sources into the waters of the United States. Initially, the Environmental Protection Agency, (EPA) issues these permits. States may be authorized to administer the NPDES program for discharge into navigable waters within their jurisdiction if EPA determines that the State program satisfies the requirements of section 402(b) of the Clean Water Act. Since the passage of the 1977 amendments to the Clean Water Act, State NPDES programs are required to include a pretreatment program and the authority to regulate discharges from federal facilities. In addition, States may request, as a part of their NPDES program, the authority to issue general NPDES permits to cover certain classes of discharges.

Utah submitted an application for NPDES authority in January 1987. Following Utah's approval of EPA's request for an extended review period, EPA determined that the State's application was complete on April 6, 1987. Onc April 14, 1987, EPA published notice of Utah's request to administer the NPDES program in Federal Register (Vol. 52 FR 12039 April 14, 1987). A public hearing was held on May 20, 1987, in Salt Lake City, Utah, to solicit comments on the proposed authorization of the UBWPC's program. Four individuals presented verbal comments

at the public hearing and no written comments were received during the comment period. The commentors generally asked for clarification of specific program implementation concerns. One commentor directly indicated support for EPA approval of the State program. No comments in opposition were expressed.

In support of its application for NPDES program approval, UBWPC has submitted to EPA copies of the relevant statues and regulations. The State has also submitted a statement by the State's Independent Counsel certifying, with appropriate citations to the statutes and regulations, that the State has adequate legal authority to administer the State NPDES program as required by 40 CFR Parts 123 and 403. EPA has concluded, upon reviewing all of these submitted materials, that the State has adequate legal authority to (1) administer the NPDES permitting program, including the authority to issue general permits, regulate discharges from federal facilities, and to carry out the program described in the program description in accordance with the requirements of 40 CFR Part 123 and (2) administer the pretreatment program, including the authority to perform each of the activities set forth in 40 CFR 403.10(f)(1) (i) through (vii).

The State of Utah has also submitted to EPA a program description which sets forth a description of the scope, structure, coverage and procedures of the State program, permit revision schedules, compliance tracking and enforcement procedures; a description of the organization and structure of the Utah Bureau of Water Pollution Control and a description of the personnel and resources to be dedicated to the program. Based upon this information, EPA had concluded that the State's program description meets the requirements of 40 CFR 123.22, including the necessary staffing and resources required by 40 CFR 123.22(b) (1) through (3) and 403.10(f)(3) to administer the NPDES and pretreatment programs.

In addition, as demonstrated by UBWPC's regulations and program description, EPA has concluded that the State has the necessary procedures for administration of the pretreatment program consistent with 40 CFR 403.10(f)(2).

The State of Utah has also submitted to EPA a Memorandum of Agreement (MOA) which sets forth provisions for the transfer of information between EPA and the State, the modification of the MOA, information and responsibilities for permit review and issuance, pretreatment, compliance monitoring and inspection, enforcement, and confidentiality of information. Based upon its review, EPA has concluded that the MOA meets the requirements of 40 CFR 123.24.

Today's **Federal Register** notice is to annouce the approval of Utah's NPDES program, including its pretreatment program and authority to issue general permits and regulate discharges from federal facilities located in the State. Utah's approved program is based upon the following statutory and regulatory authorities. Utah Health Code, Title 26–11–1 through 20, 1953, a amended and Utah Wastewater Disposal Regulations, Part VIII.

Federal Register Notice of Approval or Modification of State NPDES Programs

Under the NPDES Permit Regulations (See 40 CFR 123.61) EPA will provide **Federal Register** notice of actions by the Agency approving or modifying a State NPDES program. The following table will provide the public with an up-to-date list of the status of NPDES permitting authority throughout the country.

STATE NPDES PROGRAM STATUS

	Approved State NPDES permit program	Approved to regulate Federal facilities	Approved State pretreatment program
Arkansas	11/01/86	11/01/86	11/01/86
Alabama	10/19/79	10/19/79	10/19/79
California	05/14/73	05/05/78	.....
Colorado	03/27/75	.....	.....
Connecticut	09/26/73	.....	06/03/81
Delaware	04/01/74	.....	.....
Georgia	06/28/74	12/08/80	03/12/81
Hawaii	11/28/74	06/01/79	08/12/83
Illinois	10/23/77	09/20/79	.....
Indiana	01/01/75	12/09/78	.....
Iowa	08/10/78	08/10/78	06/03/81
Kansas	06/28/74	08/28/85	.....
Kentucky	09/30/83	09/30/83	09/30/83
Maryland	09/05/74	.....	09/30/85
Michigan	10/17/73	12/09/78	06/07/83
Minnesota	06/30/74	12/09/78	07/16/79
Mississippi	05/01/74	01/28/83	05/13/82
Missouri	10/30/74	06/26/79	06/03/81
Montana	06/10/74	06/23/81	.....
Nebraska	06/12/74	11/02/79	09/07/84
Nevada	09/19/75	08/31/78	.....
New Jersey	04/13/82	04/13/82	04/13/82
New York	10/28/75	06/13/80	.....
North Carolina	10/19/75	09/28/84	06/14/82
North Dakota	06/13/75	.....	.....
Ohio	03/11/74	01/28/83	07/27/83
Oregon	09/26/73	03/02/79	03/12/81
Pennsylvania	06/30/78	06/30/78	.....
Rhode Island	09/17/84	09/17/84	09/17/84
South Carolina	06/10/75	09/26/80	04/09/82
Tennessee	12/28/77	.....	08/10/83
Utah	07/07/87	07/07/87	07/07/87
Vermont	03/11/74	.....	03/16/82
Virgin Islands	06/30/76	.....	.....
Virginia	03/31/75	02/09/82	.....
Washington	11/14/73	.....	09/30/86
West Virginia	05/10/82	05/10/82	05/10/82
Wisconsin	02/04/74	11/26/79	12/24/80
Wyoming	01/30/75	05/18/81	.....

Review Under the Regulatory Flexibility Act and Executive Order 12291

Under the Regulatory Flexibility Act, EPA is required to prepare a Regulatory Flexibility Analysis for all rules which may have significant impact on a substantial number of small entities. The approval of the UBWPC's NPDES permit program merely transfers responsibility for administration of the NPDES program from the Federal to the State government. No new substantive requirements are established by this action. Therefore, this notice does not affect a significant number of small entities. It does not trigger the requirement of a Regulatory Flexibility Analysis. The Office of Management and Budget has exempted this action from Executive Order 12291.

Dated: July 7, 1987.

James J. Scherer,

Regional Administrator, Region VIII.

[FR Doc. 87–16528 Filed 7–21–87; 8:45 am]

BILLING CODE 6560-50-M

Alternate Concentration Limit Guidance for Hazardous Waste Management Facilities

AGENCY: Environmental Protection Agency.

ACTION: Notice of availability of guidance manual.

SUMMARY: The Environmental Protection Agency (EPA) announces the availability of an interim final guidance manual entitled *Alternate Concentration Limit Guidance: Policy and Information Requirements.* This manual provides guidance to RCRA facility permit applicants and writers concerning the establishment of Alternate Concentration Limits (ACLs). To obtain an ACL, a permit applicant must demonstrate that the hazardous constituents detected in the ground water will not pose a substantial present or potential hazard to human health or the environment at the ACL levels. ACLs are granted through the permit process under 40 CFR Parts 264 and 270 and are established in the context of the facility ground-water protection standard. The 19 factors, or criteria, that are used to evaluate ACL requests are listed in 40 CFR 264.94(b) of the regulation. Detailed information on each of these criteria is not required in every ACL demonstration because each demonstration requires different types and amounts of information, depending on the site-specific characteristics. A separate chapter of this guidance document is devoted to each of these criteria. The criteria are briefly discussed, along with the type, quantity, and quality of information that should be provided depending on the site-specific characteristics.

DATE: EPA will accept public comments until September 21, 1987. All comments must be postmarked on or before this date.

ADDRESSES: Three copies of written comments should be submitted to the Docket Clerk, Office of Solid Waste (WH-562), U.S. Environmental Protection Agency, 401 M Street SW., Washington, DC 20460 and identified as follows: "F-86-ACLG-FFFFF." Copies of the document entitled, *Alternate Concentration Limit Guidance: Policy and Information Requirements* are available for viewing at all EPA Libraries and in the EPA RCRA Docket (Sub-basement), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460, from 9:00 a.m. to 4:00 p.m., Monday through Friday, except Federal holidays, by appointment only. Appointments can be made by calling (202) 475-9327. The public may copy a maximum of 50 pages of material from any one regulatory docket at no cost. Additional copies cost 20 cents per page. In addition, these documents are available for purchase through the National Technical Information Service (NTIS), U.S. Department of Commerce, Springfield, Virginia 22161, at (703) 487-4600: *Alternate Concentration Limit Guidance: Policy and Information Requirements* (NTIS # PB87-206 165).

FOR FURTHER INFORMATION CONTACT: For general information contact: RCRA/Superfund hotline, Office of Solid Waste (WH-563C), U.S. Environmental Protection Agency, 401 M Street SW., Washington, DC 20460, telephone (800) 424-9346, or (202) 382-3000. For technical information contact Jerry Garman, (202) 382-4658.

SUPPLEMENTARY INFORMATION: The guidance manual is made up of two parts. The first part consists of a description of the agency ACL policy and information necessary to satisfy the regulatory requirements. The second part of the guidance consists of five case examples which illustrate information necessary to support ACL demonstrations in five different situations and is anticipated to be available later this year. A draft of this document was submitted for review to the EPA Science Advisory Board, which is a public advisory group providing extramural scientific information and advice to the Administrator and other EPA officials. The Environmental Engineering Committee of the Board reviewed this document between June 1985 and October 1986 and provided written comments to EPA. The Committee's comments were considered in preparing this guidance.

This guidance is being published as Interim Final. The Agency is inviting comments on both policy and technical aspects of the document. In a related matter, EPA is developing a regulatory program. Pursuant to the Hazardous and Solid Waste Amendments of 1984, to address releases from solid waste management units at facilities seeking permits to treat, store, or dispose of hazardous waste. The Agency will consider comments on the ACL guidance manual in future rulemaking anticipated later this year on corrective actions for releases from both hazardous waste and solid waste management units at RCRA facilities seeking permits.

Dated: July 13, 1987.

J.W. McGraw,

Acting Assistant Administrator, Office of Solid Waste and Emergency Response.

[FR Doc. 87-16402 Filed 7-21-87; 8:45 am]

BILLING CODE 6560-50-M

[ECAO-CD-86-073; ECAO-CD-86-082; FRL-3237-3]

Air Quality Criteria for Carbon Monoxide; Air Quality Criteria for Oxides of Nitrogen

AGENCY: Environmental Protection Agency.

ACTION: Call for information.

SUMMARY: The Environmental Criteria and Assessment Office, Office of Health and Environmental Assessment, of the U.S. Environmental Protection Agency (EPA) is undertaking to update and revise, where appropriate, the *Air Quality Criteria Document for Carbon Monoxide* (EPA-600/8-79-022) published in October, 1979, and the *Air Quality Criteria Document for Oxides of Nitrogen* (EPA-600/8-82-026) published in September, 1982.

Interested parties are invited to assist EPA in developing and refining a scientific information base for each of these documents. Information in the following areas will be particularly useful: Effects of exposure on humans and animals; effects on ecosystems; effects on visibility and materials; chemistry and physics; sources and emissions; analytical methodology; transformation and transport in the environment; and ambient concentrations. To be considered for inclusion in either of the two documents, submitted information should be published, be accepted for publication, or have been presented at a public, scientific meeting.

DATE: All communications and information must be submitted by October 2, 1987, and addressed to either the Project Manager for Carbon Monoxide or the Project Manager for Oxides of Nitrogen, Environmental Criteria and Assessment Office (MD-52), U.S. Environmental Protection Agency, Research Triangle Park, NC 27711.

FOR FURTHER INFORMATION CONTACT: Ms. Vandy Bradow, Environmental Criteria and Assessment Office, MD-52, U.S. Environmental Protection Agency, Research Triangle Park, NC 27711, Telephone: (919) 541-3797.

Dated: July 14, 1987.

Vaun A. Newill,

Assistant Administrator for Research and Development.

[FR Doc. 87-16674 Filed 7-21-87; 8:45 am]

BILLING CODE 6560-50-M

[OPP-180741; FRL 3236-9]

Receipt of an Application for a Specific Exemption To Use Bifenthrin; Solicitation of Public Comment

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: EPA has received a specific exemption request from the Mississippi Department of Agriculture and Commerce (hereafter referred to as "Applicant") for use of bifenthrin (Brigade™) (CAS 82657-04-3) to control pecan aphids (black pecan aphids, *Tinocallis caryaefoliae* and yellow aphids, *Monellia* spp.). Manufactured by FMC Corp., Brigade™ contains the active ingredient (2-methy[1,1¹-biphenyl[-3-yl) methyl-3-(2-chloro-3,3,3-triflouoro-1-propenyl]-2,2-dimethyl cyclopropanecarboxylate. In accordance with 40 CFR 166.24, EPA is soliciting comment before making the decision whether or not to grant this specific exemption request.

DATE: Comments must be received on or before August, 6, 1987.

ADDRESS: Three copies of written comments, bearing the identifying notation "OPP-180741," should be submitted by mail to:

Information Services Section, Program Management and Support Division (TS-757C), Office of Pesticide Programs, Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460.

In person, bring comments to: Room 236, CM#2, 1921 Jefferson Davis Highway, Arlington, VA.

Information submitted as a comment concerning this notice may be claimed confidential by marking any part or all of that information as "Confidential Business Information" (CBI).

Information so marked will not be disclosed except in accordance with procedures set forth in 40 CFR Part 2. A copy of the comment that does not contain CBI must be submitted for inclusion in the public record. Information not marked confidential may be disclosed publicly by EPA without prior notice to the submitter. All written comments will be available for public inspection in Rm. 236 at the addresss given above, from 8 a.m. to 4 p.m., Monday through Friday excluding legal holidays.

FOR FURTHER INFORMATION CONTACT: By mail:

Gene Asbury, Registration Division (TS–767C), Office of Pesticide Programs, Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460.

Office location and telephone number: Room 716D CM#2, 1921 Jefferson Davis Highway, Arlington, VA, (703)–557–7890.

SUPPLEMENTARY INFORMATION: Pursuant to section 18 of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) (7 U.S.C. 136p), the Administrator may, at his discretion, exempt a State agency from any registration of FIFRA if he determines that emergency conditions exist which require such exemption.

The Applicant has requested the Administrator to issue an emergency exemption for the use of bifenthrin to control pecan aphids (black pecan aphids, *Tinocallis caryaefoliae* and yellow aphids, *Monellia* spp.) in Mississippi. Bifenthrin is a synthetic pyrethroid insecticide/miticide currently registered for greenhouse ornamentals application as a foliar spray. No tolerances have been established for bifenthrin on any raw agricultural commodities.

Information in accordance with 40 CFR Part 166 was submitted as part of this request. The Applicant proposes air or ground applications applied at a rate of 0.075 to 0.20 pound of active ingredient (12 to 32 ounces of Brigade 10WP product) per acre per application. By ground equipment, Brigade™ is to be applied as a full-cover spray to the point of drip (100 gallons of finished spray per acre for small trees and 200 to 300 gallons of finished spray per acre for large trees) not exceeding 0.2 pound active ingredient per acre. With aircraft, Brigade is to be applied in a minimum of 5 gallons of water per acre. No more than 1.6 pounds of active ingredient per acre per crop season may be applied prior to shuck split. Treatment would not be allowed 21 days prior to harvest. Livestock would not be allowed to graze in treated orchards, nor would cut, treated cover crops be used for livestock feed.

Mississippi proposes to treat all of the 17,000 acres of commercially grown pecans grown in the State and estimates that if two applications, on average, are applied to these acres that a maximum of 6,800 lbs. a.i. or 68,000 lbs. of product would be needed under the proposed exemption.

The Applicant proposes that the FMC Corp. will monitor the sale and use of the insecticide for efficacy and adverse effects. The company will provide the amount of pesticide, number of acres treated, locations where the pesticide was applied, and the dates of application under the exemption to the Mississippi Department of Agriculture and Commerce, Division of Plant Industry, which has the authority to enforce pesticide regulations within the State. The Applicant does not specify the time period for treatments.

The Applicant claims that use of bifenthrin would result in fewer insecticide applications over the growing season, and in addition to its efficacy against aphids, would provide good control of the pecan leaf scorch mite, *Eotetranychus hicoriae*. With the currently registered synthetic pyrethroids there is a rapid resurgence of this pest following treatment. The buildup of this pest has become a limiting factor in the use of synthetic pyrethroids. According to the Applicant, with the use of Brigade in their pest management program, pecan growers will be able to control aphids and mites which they have had problems controlling with the registered synthetic pyrethroids.

Mississippi indicates that specific losses for pecans is difficult to estimate. Variables, such as the age of the orchard or plant density (tree spacing) causes yields to vary significantly. While yield losses occur in the year of the pest outbreak, more significant losses occur the following year. If aphids are not adequately controlled, pecan growers will experience serious yield losses in quality and quantity.

This notice does not constitute a decision by EPA on the application itself. The regulations governing section 18 require that the Agency publish notice in the **Federal Register** and solicit public comment on an application involving the first food use of a pesticide. Accordingly, interested persons may submit written views on this subject to the Program Management and Support Division at the address above.

The Agency, accordingly, will review and consider all comments received during the comment period.

Dated: July 9, 1987.

Janet L. Auerbach,

Acting Director, Registration Division, Office of Pesticide Programs.

[FR Doc. 87–16673 Filed 7–21–87; 8:45 am]

BILLING CODE 6560–50–M

FEDERAL COMMUNICATIONS COMMISSION

[MM Docket No. 87–247; File Nos. BPH–8507 1100, et al.]

Applications for Consolidated Hearing; Harold S. Schwartz, Abilene, TX

1. The Commission has before it the following mutually exclusive applications for a new FM station:

Applicant	City/State	File No.	MM Docket No.
A. Harold S. Schwartz	Abilene, TX	BPH–85071100	87–247
B. Clayton Creekmore d.b.a. FM–106	do	BPH–850711OP	
C. Susan Lundborg	do	BPH–850711OR	
D. West Texas Radio Broadcasting, Inc	do	BPH–850712VS	
E. Mary Ellen Domningos Holley	do	BPH–850712VW	
F. Kent S. Foster	do	BPH–850712VX	
G. FM Abilene Limited Partnership	do	BPH–850712VY	
H. Mary F. Watkins	do	BPH–850712WB	
I. McRae Media, Inc	do	BPH–850712WC	
J. Crescendo Broadcasting, Inc	do	BPH–850712WD	
K. Bro-com, Inc	do	BPH–850712WF	
L. Saybro Communications, Inc	do	BPH–850712WH	
M. PN Radio Co	do	BPH–850711OQ (Dismissed)	
N. Delphi Broadcasting	do	BPH–850711OS (Dismissed)	
O. Abilene Broadcasting Foundation	do	BPH–850712WG (Dismissed)	

2. Pursuant to section 309(e) of the Communications Act of 1934, as amended, the above applications have been designated for hearing in a consolidated proceeding upon the issues whose headings are set forth below. The text of each of these issues has been standardized and is set forth in its entirety under the corresponding headings at 51 FR 19347, May 29, 1986. The letter shown before each applicant's name, above, is used below to signify whether the issue in question applies to that particular applicant.

Issue Heading and Applicant(s)

1. Alien Control—J
2. Air Hazard—A, B, F, K
3. Environmental—G
4. Comparative—All
5. Ultimate—All

3. If there is any non-standardized issue(s) in this proceeding, the full text of the issue and the applicant(s) to which it applies are set forth in an Appendix to this Notice. A copy of the complete HDO in this proceeding is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington DC. The complete text may also be purchased from the Commission's duplicating contractor, International Transcription Services, Inc., 2100 M Street, NW., Washington, DC 20037. (Telephone (202) 857–3800).

W. Jan Gay,

Assistant Chief, Audio Services Division Mass Media Bureau.

[FR Doc. 87–16629 Filed 7–21–87; 8:45 am]

BILLING CODE 6712-01-M

[MM Docket No. 87–251; File Nos. BPH–860131MT, et al.]

Applications for Consolidated Proceeding; Jessamine County Communications, Ltd.

1. The Commission has before it the following mutually exclusive applications for a new FM station:

Applicant	City/Stae	File No.	MM Docket No.
A. Jessamine County Communications, Ltd	Nicholasville, KY	BPH–860131MT	87–251
B. FM Nicholasville Limited Partnership	do	BPH–860203NR	
C. Janet Reynolds Hill	do	BPH–860203NT	
D. Nicholasville Broadcasting Corp	do	BPH–860203NS (Dismissed)	

2. Pursuant to section 309(e) of the Communications Act of 1934, as amended, the above applications have been designated for hearing in a consolidated proceeding upon the issues whose headings are set forth below. The text of each of these issues has been standardized and is set forth in its entirety under the corresponding headings at 51 FR 19347, May 29, 1986. The letter shown before each applicant's name, above, is used below to signify whether the issue in question applies to that particular applicant.

Issue Heading and Applicant(s)

1. Air Hazard—A, B
2. Comparative—A, B, C
3. Ultimate—A, B, C

3. If there is any non-standardized issue(s) in this proceeding, the full text of the issue and the applicant(s) to which it applies are set forth in an Appendix to this Notice. A copy of the complete HDO in this proceeding is available for inspection and copying during normal business hours in the FCC Dockets Branch (Room 230), 1919 M Street, NW., Washington, DC. The complete text may also be purchased from the Commission's duplicating contractor, International Transcription Services, Inc., 2100 M Street, NW., Washington, DC 20037 (Telephone No. (202) 857–3800).

W. Jan Gay,

Assistant Chief, Audio Services Division, Mass Media Bureau.

[FR Doc. 87–16628 Filed 7–21–87; 8:45 am]

BILLING CODE 6712-01-M

FEDERAL MARITIME COMMISSION

Agreement(s) Filed

The Federal Maritime Commission hereby gives notice of the filing of the following agreement(s) pursuant to section 5 of the Shipping Act of 1984.

Interested parties may inspect and obtain a copy of each agreement at the Washington, DC Office of the Federal Maritime Commission, 1100 L Street, NW., Room 10325. Interested parties may submit comments on each agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days after the date of the **Federal Register** in which this notice appears. The requirements for comments are found in § 572.603 of Title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Agreement No.: 212–009847–017.

Title: U.S. Atlantic Coast/Brazil Agreement.

Parties:

Companhia de Navegacao Lloyd Brasileiro.

Companhia de Navegacao Maritima Netumar.

Synopsis: The proposed amendment would add American Transport Lines, Inc. (Amtrans) as a party to the agreement. It would also establish minimum sailings for the period April 1, 1987 through December 31, 1987, would limit the amount of undercarriage payments a party could receive for the period and would provide for a new pool period from April 1, 1987 through December 31, 1987, which would include revenues from cargo carried from that date by Amtrans. The parties have requested a shortened review period.

Agreement No.: 212–009848–019.

Title: U.S. Gulf Ports/Brazil Agreement.

Parties:

Companhia de Navegacao Lloyd Brasileiro.

Companhia Maritima Nacional.

Synopsis: The proposed amendment would add American Transport Lines, Inc. (Amtrans) as a party to the agreement. It would also establish minimum sailings for the period April 1, 1987 through December 31, 1987, and would provide for a new pool period from April 1, 1987 through December 31, 1987, which would include revenues from cargo carried from that date by

Amtrans. The parties have requested a shortened period.

Agreement No.: 212–010027–017.
Title: Brazil/U.S. Atlantic Coast Agreement.
Parties:
Companhai de Navegacao Lloyd Brasileiro.
Companhia de navegacao Maritima Netumar.
Empresa Lineas Maritimas Argentinas.
A. Bottacchi S.A. de Navegacion C.F.I.I.
Van Nievelt, Goudriaan and Co., B.V.

Synopsis: The proposed amendment would add American Transport Lines, Inc. and delete Cylanco as parties to the agreement. It would also adjust non-national flag pool shares to account for Cylanco's departure. The parties have requested a shortened review period.

Agreement No.: 212–010386–011.
Title: Argentina/U.S. Atlantic Coast Agreement.
Parties:
A. Bottacchi S.A. de Navegacion C.F.I.I.
Cia. de Navegacao Lloyd Brasileiro.
Expresa Lineas Maritimas Argentinas.
Reefer Express Lines Pty., Ltd.
Van Nievelt, Goudriaan & Co., by (Holland Pan Am).

Synopsis: The proposed amendment would add American Transport Lines, Inc. (Amtrans) as a party to the agreement. It would also establish minimum sailings for the period of April 1, 1987 through December 31, 1987, and would provide for a new pool period from April 1, 1987 through December 31, 1987, which would include revenues from cargo carried from that date by Amtrans. The parties have requested a shortened reveiw period.

Agreement No.: 212–010382–012.
Title: Argentina/U.S. Gulf Ports Agreement.
Parties:
A. Bottacchi S.A. de Navegacion C.F.I.I.
Cia. de Navegacao Lloyd Brasileiro.
Companhia Maritima Nacional.
Expresa Lineas Maritimas Argentinas S.A.
Reefer Express Lines Pty., Ltd.
Transportacion Maritima Mexicana S.A.

Synopsis: The proposed amendment would add American Transport Lines, Inc. (Amtrans) as a party to the agreement. It would also establish minimum sailings for the period of April 1, 1987 through December 31, 1987, and would provide for a new pool period from April 1, 1987 through December 31, 1987, which would include revenues from cargo carried from that date by Amtrans. The parties have requested a shortened reveiw period.

By Order of the Federal Maritime Commission.

Dated: July 17, 1987.

Joseph C. Polking,
Secretary.
[FR Doc. 87–16584 Filed 7–21–87; 8:45 am]
BILLING CODE 6730–01–M

Agreement(s) Filed; Kurt Iron and Metal Co., Inc. and California Stevedore and Ballast Co.

The Federal Maritime Commission hereby gives notice of the filing of the following agreement(s) pursuant to section 5 of the Shipping Act of 1984.

Interested parties may inspect and obtain a copy of each agreement at the Washington, DC Office of the Federal Maritime Commission, 1100 L Street NW., Room 10325. Interested parties may submit comments on each agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days after the date of the **Federal Register** in which this notice appears. The requirements for comments are found in § 572.603 of Title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Agreement No.: 224–200008.
Title: Maryland Port Administration Terminal Agreement.
Parties:
Maryland Port Administration
Kurt Iron and Metal Co., Inc. (KURT)

Synopsis: The proposed agreement will provide for an eleven-year tenancy of Kurt at Pier 1 in the Port of Baltimore.

Agreement No.: 224–004059–004.
Title: San Francisco Terminal Agreement.
Parties:
City of San Francisco
California Stevedore and Ballast, Co.

Synopsis: The proposed agreement would extend the term of the agreement until January 13, 1990 upon the existing terms and conditions. All other provisions of the agreement will remain unchanged.

Dated: July 17, 1987.
By order of the Federal Maritime Commission.

Joseph C. Polking;
Secretary.
[FR Doc. 87–16666 Filed 7–21–87; 8:45 am]
BILLING CODE 6730–01–M

Item Submitted for OMB Review

The Federal Maritime Commission hereby gives notice that the following item has been submitted to OMB for review pursuant to the Paperwork Reduction Act of 1980 (44 U.S.C. 3601, *et seq.*). Requests for information, including copies of the collection of information and supporting documentation, may be obtained from John Robert Ewers, Director, Bureau of Administration, Federal Maritime Commission, 1100 L Street NW., Room 12211, Washington, DC 20573, telephone number (202) 523–5866. Comments may be submitted to the agency and to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503, Attention: Desk Officer for the Federal Maritime Commission, within 15 days after the date of the **Federal Register** in which this notice appears.

Summary of Item Submitted for OMB Review

46 CFR Part 504

FMC requests an extension of clearance for 46 CFR Part 504 which implements the National Environmental Policy Act of 1969. That Act requires that agencies complete an assessment of potential environmental impacts of all major regulatory actions not excluded categorically from consideration. The Commission estimates an annual respondent universe of 15 with a total estimated 191.5 manhour burden. Total cost to the Federal Government is estimated at $75,000; total cost to respondents is estimated at $6250.

Joseph C. Polking,
Secretary.
[FR Doc. 87–16665 Filed 7–21–87; 8:45am]
BILLING CODE 6730–01–M

FEDERAL RESERVE SYSTEM

Proposal To Underwrite and Deal in Consumer-Receivable-Related Securities to a Limited Extent; J.P. Morgan & Co. Inc.

J.P. Morgan & Co. Incorporated, New York, New York, has applied, pursuant to section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.23(a)(3) of the Board's Regulation Y (12 CFR 225.23(a)(3)), for permission to engage *de novo* through its wholly ownd subsidiary, J.P. Morgan Securities Inc. ("JPMS"), in the activities of underwriting and dealing in, to a limited degree, consumer-receivable-related securities (obligations secured by or representing an interest in loans or

receivables made to or due from consumers which are eligible for purchase by banks for their own account) ("CRRs").

JPMS currently underwrites and deals in securities that member banks are permitted to underwrite and deal in under the Glass-Steagall Act ("eligible securities") (U.S. government securities, general obligations of states and municipalities and certain money market instruments), as permitted by § 225.25(b)(16) of Regulation Y (12 CFR 225.25(b)(16)). JPMS has also previously received Board approval under section 4(c)(8) of the BHC Act to underwrite, deal or place commercial paper, 1–4 family mortgage-related securities and certain municipal revenue bonds (including "public ownership" industrial development bonds).

JPMS would conduct the proposed activities on a nationwide basis from its offices located in New York.

Section 4(c)(8) of the Bank Holding Company Act provides that a bank holding company may, with Board approval, engage in any activity "which the Board after due notice and opportunity for hearing has determined (by order or regulation) to be so closely related to banking or managing or controlling banks as to be a proper incident thereto." Morgan has applied to engage in the same activities with similar limitations as proposed in the applications of Chemical New York Corporation, The Chase Manhattan Corporation, Bankers Trust New York Corporation, Manufacturers Hanover Corporation and Security Pacific Corporation, previously approved conditionally by the Board on July 14, 1987 (Order dated July 14, 1987). In its Order, the Board authorized the foregoing bank holding companies to engage through subsidiaries in underwriting and dealing in CRRs within a prudential framework of conditions and subject to 5 percent gross revenue and market limitations.

The application presents issues under section 20 of the Glass-Steagall Act (12 U.S.C. 377). Section 20 of the Glass-Steagall Act prohibits the affiliation of a member bank, such as Morgan Guaranty Trust Company of New York, with a firm that is "engaged principally" in the "underwriting, public sale or distribution" of securities. Morgan states that it would not be "engaged principally" in such activities on the basis of restrictions that would limit the amount of the proposed activity relative to the total business conducted by JPMS and relative to the total market in such activity.

Any request for a hearing on this application must comply with § 262.3(e) of the Board's Rules of Procedure (12 CFR 262.3(e)).

The application may be inspected at the offices of the Board of Governors or the Federal Reserve Bank of New York.

Any comments or requests for hearing should be submitted in writing and received by William W. Wiles, Secretary, Board of Governors of the Federal Reserve System, Washington, DC 20551, not later than August 14 1987.

Board of Governors of the Federal Reserve System, July 16, 1987.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 87–16585 Filed 7–21–87; 8:45 am]

BILLING CODE 6210–01–M

Formation of, Acquisition by, or Merger of Bank Holding Companies; NBC Financial Corp.

The company listed in this notice has applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.24) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that application or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Comments regarding this application must be received not later than August 14, 1987.

A. Federal Reserve Bank of America (Robert E. Heck, Vice President) 104 Marietta Street NW., Atlanta, Georgia 30303:

1. *NBC Financial Corporation*, Baton Rouge, Louisiana; to become a bank holding company by acquiring 100 percent of the voting shares of National Bank of Commerce, Baton Rouge, Louisiana.

Board of Governors of the Federal Reserve System, July 16, 1987.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 87–16586 Filed 7–21–87; 8:45 am]

BILLING CODE 6210–01–M

Application To Engage de Novo in Permissible Nonbanking Activities; United Saver's Bancorp, Inc.

The company listed in this notice has filed an application under § 225.23(a)(1) of the Board's Regulation Y (12 CFR 225.23(a)(1)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to commence or to engage *de novo*, either directly or through a subsidiary, in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweight possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Unless otherwise noted, comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than August 10, 1987.

A. Federal Reserve Bank of Boston (Robert M. Brady, Vice President) 600 Atlantic Avenue, Boston, Massachusetts 02106:

1. *United Saver's Bancorp, Inc.*, Manchester, New Hampshire; to engage *de novo* through its subsidiary,

Dartmouth Mortgage Company, Inc., Hanover, New Hampshire, in commercial construction and permanent lending activities pursuant to § 225.25(b)(1) (iii) and (iv) of the Board's Regulation Y. These activities will be conducted in the states of New York, Maine, New Hampshire, Vermont, Massachusetts, Connecticut, and Rhode Island.

Board of Governors of the Fedral Reserve System, July 16, 1987.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 87-16587 Filed 7-21-87; 8:45 am]

BILLING CODE 6210-01-M

GENERAL SERVICES ADMINISTRATION

[GSA Bulletin FPMR A-40, Supp. 24]

Federal Travel Regulations; Per Diem Rates and Reimbursement Procedures; Correction

AGENCY: Federal Supply Service, GSA.

ACTION: Notice of changes to Federal Travel Regulations; correction.

SUMMARY: On Wednesday, July 15, 1987, GSA published a Notice of Changes to Federal Travel Regulations, Per diem rates and reimbursement procedures (52 FR 26630). This document corrects errors in the text and in the listing of per diem locality rates.

FOR FURTHER INFORMATION CONTACT: Staff members, Regulations and Policy Division FTS 557-1253, 557-1256, or 557-7525 (for non-FTS use AC 703).

Accordingly, make the following corrections in FR Doc. 87-16009 beginning on page 26630 in the issue of July 15, 1987:

1. On page 26632, in the left-hand column, under paragraph (ii) entitled *Method of prorating M&IE rate,* insert the word "the" in the seventh line between the words "of" and "trip."

2. On page 26633, in the right-hand column, under paragraph (b) entitled *En route less than 6 hours,* insert the letter "s" at the end of the word "point" in the seventh line.

3. On page 26636, in the middle column, correct the reference to paragraph 2-5.4, to read as follows: "2-5.4. *Allowable amount."*

4. On page 26638, under Colorado, revise the spelling of "Archulete" County in column 2 to read "Archuleta."

5. On page 26640, under Kentucky, delete "Oykasju" County in column 2 and insert in its place "Pulaski."

6. On page 26640, under Maine, revise the spelling of "Saqadahoc" County, in column 2 to read "Sagadahoc."

7. On page 26644, under Ohio, revise the key city of "Bridgeport/Martins Ferry/Belaire" to read "Bridgeport/Martins Ferry/Bellaire."

8. On page 26644, under Ohio, revise the key city of "Tinney/Freemont" to read "Tinney/Fremont."

9. On page 26645, under Oklahoma, remove Tulsa in column 1 and corresponding entries in columns 2, 3, 4, and 5.

10. On page 26645, under Oklahoma, revise the entry for Bartlesville to read as follows:

Per diem locality		Maximum Lodging Amount (a)	+	M&IE Rate (b)	=	Maximum Per Diem Rate (c)[4]
Key city	County and/or other defined location[2 3]					
Bartlesville/Tulsa	Osage, Tulsa & Washington	43		25		68

11. On Page 26646, under Tennessee, revise the key city of "Knoxville/Oak Ridge" to read "Knoxville."

12. On Page 26648, the text accompanying footnote 4 is revised to read as follows:

[4] Federal agencies may submit a request to GSA for review of the subsistence cost in a particular city or area where the standard CONUS rate applies when travel to that location is repetitive or on a continuing basis and travelers' experiences indicate that the prescribed rate is inadequate. Other per diem localities listed in this appendix will be surveyed on an annual basis by GSA to determine whether rates are adequate. Requests for subsistence rate adjustments shall be submitted by the agency headquarters office of the General Services Administration, Federal Supply Service, Attn: Regulations and Policy division (FFY), Washington, DC 20406. Agencies should designate an individual responsible for reviewing, coordinating, and submitting to GSA the requests from bureaus, subagencies, etc. Requests for rate adjustments shall include a city designation, a description of the surrounding location involved (county or other defined area) and a recommended rate supported by a statement explaining the circumstances that cause the existing rate to be inadequate. The request also must contain an estimate of the annual number of trips to the location, the average duration of such trips, and the primary purpose of travel to the locations.

Dated: July 17, 1987.

Donna M. Stright,

Director, Regulations and Policy Division.

[FR Doc. 87-16640 Filed 7-21-87; 8:45 am]

BILLING CODE 6820-AM-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration; Statement of Organization, Functions and Delegations of Authority

Part H, Chapter HB (Health Resources and Services Administration) of the Statement of Organization, Functions and Delegations of Authority of the Department of Health and Human Services (47 FR 38409-38424, August 31, 1982, as amended most recently at 51 FR 46724, December 24, 1986, is amended to reflect the following:

1. Establishment of a new Bureau of Maternal and Child Health and Resources Development;

2. Abolishment of the Bureau of Resources Development (BRD); and the transfer of its functions to the new Bureau of Maternal and Child Health and Resources Development;

3. Transfer of the Maternal and Child Health Program from the Bureau of Health Care Delivery and Assistance to the new Bureau of Maternal and Child Health and Resources Development; and

4. Transfer of the regional facilities engineering and construction activities from the Office of Operations and Management, Office of the Administrator, to the new Bureau of Maternal and Child Health and Resources Development.

This reorganization is intended to improve program effectiveness by consolidating resources and functions, and to accommodate several major new program responsibilities that have been assigned to HRSA.

Under HB-10, Organization and Functions, amend the functional statements for the *Health Resources and Services Administration (HB)* as follows:

1. After the functional statement for the *Division of Disadvantaged Assistance (HBP6)* add the following functional statement: *Bureau of Maternal and Child Health and Resources Development (HBR).* Develops, administers, directs, coordinates, monitors, and supports Federal policy and programs pertaining to health care facilities, health care promotion of mothers and children, a national network of activities associated with organ donations, procurements, and transplantation, and activities related to acquired immune deficiency syndrome (AIDS). This includes financial, capital, organizational, and physical matters. Specifically: (1) Provides national leadership in supporting, identifying, and interpreting

national trends and issues of significance in promoting the health of mothers and children; (2) administers grant, loan, loan guarantee, and interest subsidy programs under Titles VI and XVI of the Public Health Service Act, as amended, relating to the construction, modernization, conversion or closure of health care organizations; (3) develops long and short range program goals and objectives for health facilities, and for specific health promotional, organ transplantation and AIDS activities; (4) promotes reduction of costs associated with facility design, construction, modernization, and replacement, and non-medical operation (e.g., energy and maintenance); (5) develops, conducts, and maintains a program of grants to organ procurement organizations (OPOs); (6) provides technical assistance to OPOs and health care delivery systems and facilities in a wide variety of specific technical and technological systems; (7) serves as advisor to and coordinates activities with other Administration organizational elements, other Federal organizations within and outside the Department, State and local bodies, and professional and scientific organizations; (8) develops, promotes, and directs efforts to improve the management, operational effectiveness, and efficiency of health care systems, organizations, and facilities; (9) administers regional facilities engineering and construction activities performed by PHS Regional Offices; and (10) maintains liaison and coordinates with non-Federal public and private entities as necessary for the accomplishment of Bureau missions and objectives.

2. *Abolish the Bureau of Resources Development (HBH)* in its entirety;

3. Amend the functional statement for the *Bureau of Health Care Delivery and Assistance (HBC)* as indicated below:

(a) In item number (1) of the functional statement for the *Bureau of Health Care Delivery and Assistance (HBC)* insert a semicolon after the word "populations" and delete the words "through the Primary Health Care Block Grant and through the Maternal and Child Health Services Block Grant which provides a principal means of support in maintaining and improving the health of mothers and children;"

(b) In item number (2) of the functional statement for the *Office of the Director (HBC1)*, delete the words "block and;" and

(c) Delete the functional statement for the *Division of Maternal and Child Health (HBC3)* in its entirety; and

4. Amend the functional statement for the *Office of Operations and Management (HBA4)* by deleting number (6); changing the semicolon after item number (5) to a period; deleting the word "and" after item number (5); and inserting the word "and" before item number (5).

All delegations and redelegations of authorities to officers and employees of the Health Resources and Services Administration which were in effect immediately prior to the effective date of this reorganization will be continued in effect in them or their successors, pending further redelegation, provided they are consistent with this reorganization.

This reorganization is effective October 1, 1987.

Dated: May 27, 1987.

Otis R. Bowen,

Secretary.

[FR Doc. 87-16606 Filed 7-21-87; 8:45 am]

BILLING CODE 4160-15-M

Centers for Disease Control

Medical Examiner/Coroner Information Sharing Program; Program Announcement and Notice of Availability of Funds for FY 1987

The Centers for Disease Control (CDC) announces that competitive applications are being accepted to support a Project to assist a National Organization of Medical Examiners and Coroners to Improve Quality and Sharing of Data on Death Investigations. The Catalog of Federal Domestic Assistance number is 13.283.

Authority

This program is authorized under section 301 of the Public Health Service Act.

Availability of Funds

It is expected that approximately $125,000 will be available in Fiscal Year 1987. The estimated funds to be available in subsequent years is $125,000 per year, depending on the availability of funds. The cooperative agreement will be awarded in 12-month budget periods within a 2-year project period. The project may be extended into a third year if exceptional circumstances prevent completion of the objectives within 2 years.

Eligible Applicants

Eligible applicants are national organizations of medical examiners and/or coroners. The investigation and disposition of data related to deaths in the United States has been and continues to be the legal responsibility of medical examiners and coroners. Therefore, given the intent of this cooperative agreement, a national organization of medical examiners and coroners is the only type of applicant that can provide the leadership and direction to its members to improve the uniformity and quality of data of death investigations and to share the information among its members and public health agencies in a timely manner.

Type of Assistance

The award resulting from this announcement will be a cooperative agreement.

Purpose and Cooperative Activities

A. Purpose

The purpose of this cooperative agreement is to assist a national professional organization of medical examiners/coroners (ME/Cs) to improve the uniformity and quality of data on sudden unexpected deaths, and to develop better ways of sharing information among ME/C offices and public health agencies.

Specific objectives of the agreement are:

1. To promote uniformity in death investigation procedures, criteria and protocols for autopsy and toxicologic testing, laboratory analytic methods, quality control procedures, data recording formats, and data encoding schemes.

2. To enhance communication and information sharing among medical examiners, coroners, and public health officials.

3. To assist a national professional organization of medical examiners and coroners in providing leadership and direction to its membership in proving the quality of death investigations and record keeping practices.

B. Cooperative Activities

1. Recipient Organization Activities

a. Assess the adequacy of death investigation practices and comparability of ME/C case data in the United States.

b. Build consensus among medical examiners and coroners regarding the need for uniform death investigation procedures, data format, and information sharing among ME/Cs and public health officials.

c. Develop and disseminate guidelines for death investigation procedures, including criteria for when an autopsy should be performed, when toxicologic testings should be done, and what laboratory analytic methods should be used.

d. Develop and disseminate guidelines for minimal and optimal data

items in case investigations, data formats, and data coding schemes.

e. Collaborate with CDC in identifying mechanisms for sharing information and minimal case data among ME/C offices and public health agencies in a timely manner.

f. Identify factors that facilitate and barriers that impede the progress of ME/C offices in conforming with guidelines for quality and uniformity in death investigations and compare costs or proposed uniform methods versus current systems.

g. Evaluate automated record keeping systems that can enhance the quality and uniformity of ME/C case data, and that can facilitate sharing of information with other ME/Cs and public health officials.

h. Educate and assist member ME/C offices in conforming to guidelines for death investigation, record keeping, data encoding, and information sharing.

2. Centers for Disease Control (CDC) Activities

a. Compile a list of ME/C offices in the United States identified through State registrars of vital statistics.

b. Provide technical assistance in identifying minimum data needs (items and coding) for epidemiologic investigation or surveillance of deaths from injuries, poisonings, drug abuse, violence, and other external cases.

c. Provide technical assistance to the national organization of ME/Cs in defining uniform data formats and data coding schemes for case summaries, routine surveillance, and epidemiologic studies.

d. Collaborate with the national organization of ME/Cs in identifying better ways to share information and essential case data among ME/C offices and public health agencies.

e. Assist the national organization of ME/Cs in analyzing available ME/C data, in preparing statistical reports, and in disseminating findings to ME/C offices and state/local health agencies.

f. Collaborate with the national organization of ME/Cs to assist ME/C offices in using death investigation data for public health surveillance, epidemiologic studies, and prevention/control programs.

Reports

A. Progress reports will be submitted on a quarterly basis, due 30 days after each quarter. Financial status reports are required no later than 90 days after the end of each budget period. Final financial status and progress reports are required 90 days after the end of a project period.

B. The recipient shall prepare and submit annual progress and financial status reports in accordance with the requirements of 45 CFR Part Subparts I and J, respectively.

Applications

A. Copies—Place of Submission

The original and two copies of the application should be submitted on Form PHS 5161–1 by August 17, 1987, to: Grants Management Office, Centers for Disease Control, 255 East Paces Ferry Road, Atlanta, Georgia 30305, Telephone: (404) 262–6575.

Application forms may be obtained from the above address.

B. Deadlines

Application shall be considered as meeting the deadline if they are either:

1. Received on or before the deadline date; or

2. Sent on or before the deadline date and received in time for submission to the independent review group. (Applicants should request a legibly-dated U.S. Postal Service postmark or obtain a legibly-dated receipt from a commercial carrier or U.S. Postal Service. Private metered postmarks shall not be acceptable as proof of timely mailing.)

C. Late Applications

Applications which do not meet the criteria in either paragraph 1 or 2 immediately above are considered late applications and will not be considered in the current competition and will be returned to the applicant.

D. Reviews

Applications are not subject to review as governed by Executive Order 12372, Intergovernmental Review of Federal Programs.

Review of Application

The application will be reviewed in accordance with PHS Grants Administration Manual Part 134, Objective Review of Grant Applications. Each application will be evaluated based upon the following criteria:

A. The applicant's understanding of the need or problem to be addressed by and the purpose of this cooperative agreement.

B. The applicant's ability to provide the staff, knowledge, and other resources required to perform this project, and its approach in carrying out those responsibilities.

C. A clear description of the objectives of the project, the steps to be taken in planning and implementing this project, and the respective responsibilities of the applicant, CDC, and any other entities for carrying out those steps.

D. A proposed schedule for accomplishing each of the activities of this project that is reasonable and attainable and methods adequate for evaluating those accomplishments.

E. The qualifications and time allocations of the professional staff to be assigned to this project; the adequacy of the support staff as well as the facilities, space, and equipment for performing this project.

F. An adequate plan for administering this project, and the qualifications and time allocations of the individual proposed to be responsible for its administration.

G. The adequacy of the detailed budget and accounting system to be used in maintaining records of all costs.

H. To successfully complete this project, the recipient must:

1. Have a broad knowledge of death investigation procedures, legal mandates, and ME/C systems in the United States.

2. Be recognized as a leader in forensic pathology and toxicology.

3. Have authority and commitment in enhancing the quality of death investigations.

4. Have established working relationships with ME/C offices.

5. Have an established system and identified role to exchange information on death investigation procedures among ME/Cs.

6. Have broad knowledge of public health and have a working relationship with public health agencies.

Information

Further information on this project may be obtained from:

Technical

Gib Parrish, M.D., Medical Epidemiologist, Project Officer, Division of Environmental Hazards and Health Effects, Center for Environmental Health, Centers for Disease Control, Atlanta, Georgia 30333, Telephone: (404) 454–4780

Business

Mr. Luther DeWeese, Grants Specialist, Procurement and Grants Office, Centers for Disease Control, 255 E. Paces Ferry Road, NE., Atlanta, Georgia 30333, Telephone: (404) 262–6575

Dated: July 15, 1987.

Glenda S. Cowart,

Acting Director, Office of Program Support, Centers for Disease Control.

[FR Doc. 87-16582 Filed 7-21-87; 8:45 am]

BILLING CODE 4160-18-M

Food and Drug Administration

[Docket No. 87N-0202]

An Evaluation of Mechanisms and Procedures Utilized in Obtaining Scientific Expertise for Food and Cosmetic Safety Analyses; Report Availability

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that it has received the final report, which is now available to the public, of the Federation of American Societies for Experimental Biology (FASEB) on an evaluation of mechanisms and procedures utilized in obtaining scientific expertise for food and cosmetic safety analyses. The report was publicly available on May 19, 1987.

ADDRESSES: Requests for a copy of the final report should be sent to the Special Publications Office, Federation of American Societies for Experimental Biology, 9650 Rockville Pike, Bethesda, MD 20814, along with $12 to cover the cost. In the near future, the report will be available from the National Technical Information Service, 5275 Port Royal Rd., Springfield, VA 22161. Copies are on display at the Life Sciences Research Office, FASEB (address above), and at the Dockets Managaement Branch (HFA-305), Food and Drug Administration, Rm 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT:

Kenneth D. Fisher, Director, Life Sciences Research Office, Federation of American Societies for Experimental Biology 9650 Rockville Pike, Bethesda, MD 20814, 301-530-7030, or

Charles W. Cooper, Center for Food Safety and Applied Nutrition (HFF-3), Food and Drug Administration, 200 C Street SW., Washington, DC 20204, 202-485-0265.

SUPPLEMENTARY INFORMATION: FDA has had a contract (223-83-2020) with FASEB concerning the use of outside scientific expertise in food and cosmetic safety analyses. The objectives of this contract are (1) to provide expert, objective counsel to FDA on general and specific issues of scientific fact and (2) to explore various review mechanisms with respect to their effectiveness and efficiency. FASEB established a Scientific Steering Group to serve FASEB in conjunction with this contract.

Since June 1, 1984, FDA has biven FASEB a series of Task Orders under this contract to study various issues. (See 50 FR 46832 (November 13, 1985); 50 FR 51453 (December 17, 1985); 51 FR 2577 (January 17, 1986); and 51 FR 8030 (March 7, 1986.) Copies of the Task Order reports completed under the terms of this contract are on display at the Dockets Management Branch and the Life Sciences Research Office (addresses above). A list of the Task Order reports may be obtained by writing to the FDA contact person (address above).

The Scientific Steering Group has now completed, and presented to FASEB, its evaluation of the effectiveness and the efficiency of the various review mechanisms employed under the contract. FASEB has reviewed the Scientific Steering Group's work and has submitted to FDA a report entitled "An Evaluation of Mechanisms and Procedures Utilized in Obtaining Scientific Expertise for Food and Cosmetic Safety Analyses." The report identifies the scientific review mechanisms utilized in conducting studies under the contract and contains a number of specific observations as well as recommendations for future work. It is now available to the public.

Dated: July 14, 1987.

John M. Taylor,

Associate Commissioner for Regulatory Affairs.

[FR Doc. 87-16591 Filed 7-21-87; 8:45 am]

BILLING CODE 4160-01-M

Public Health Service

Health Resources and Services Administration; Health Education Assistance Loan Program; Maximum Interest Rates for Quarter Ending September 30, 1987

Section 727 of the Public Health Service Act (42 U.S.C. 294) authorizes the Secretary of Health and Human Services to establish a Federal program of student loan insurance for graduate students in health professions schools.

A. Section 60.13(a)(4) of the program's implementing regulations (42 CFR Part 60, previously 45 CFR Part 126) provides that the Secretary will announce the interest rate in effect on a quarterly basis.

The Secretary announces that for the period ending September 30, 1987, three interest rates are in effect for loans executed through the Health Education Assistance Loan (HEAL) program.

1. For loans made before January 27, 1981, the variable interest rate is 9½ percent. Using the regulatory formula (45 CFR 126.13(a)(2) and (3)) in effect to January 27, 1981, the Secretary would normally compute the variable rate for this quarter by finding the sum of the fixed annual rate (7 percent) and a variable component calculated by subtracting 3.50 percent from the average bond equivalent rate of 91-day U.S. Treasury bills for the preceding calendar quarter (5.92 percent), and rounding the result (9.42 percent) upward to the nearest ⅛ percent). However, the regulatory formula also provides that the annual rate of the variable interest rate for a 3-month period shall be reduced to the highest one-eight of 1 percent which would result in an average annul rate not in excess of 12 percent for the 12-month period concluded by those 3 months. Because the average rate of the 4 quarters ending September 30, 1987, is not excess of 12 percent, there is no necessity for reducing the interest rate. For the previous 3 quarters the variable interest at the annual rate was as follows: 9¼ percent for the quarter ending December 31, 1986; 9⅛ percent for the quarter ending March 31, 1987; and 9¼ percent for the quarter June 30, 1987.

2. For variable rate loans executed during the period of January 27, 1981 through October 21, 1985, the interest rate is 9½ percent. Using the regulatory formula (42 CFR 60.13(a)(3)) in effect for that time period, the Secretary computes the maximum interest rate at the beginning of each calendar quarter by determining the average bond equivalent rate for the 91-day U.S. Teasury bills during the preceding quarter (5.92 percent); adding 3.50 percent (9.42 percent); and rounding that figure to the next higher one-eighth of 1 percent (9½ percent).

3. For fixed rate loans executed during the period of July 1, 1987 through September 30, 1987, and for variable rate loans executed on or after October 22, 1985, the interest rate is 9 percent. The Health Professions Training Assistance Act of 1985 (Pub. L. 99-129), enacted October 22, 1985, amended the formula for calculating the interest rate by changing 3.5 percent to 3 percent. Using the regulatory formula (42 CFR 60.13(a)(2) and (3)) with the statutory change of 3 percent (42 CFR 60.13(a)(1)), the Secretary computes the maximum interest rate at the beginning of each calendar quarter by determining the average bond equivalent rate for the 91-

day U.S. Treasury bills during the preceding quarter (5.92 percent); adding 3.0 percent (8.92 percent) and rounding that figure to the next higher one-eighth of 1 percent (9 percent).

(Catalog of Federal Domestic Assistance No. 13.108, Health Education Assistance Loans)

Dated: July 16, 1987.

David N. Sundwall,

Administrator, Assistant Surgeon General.

[FR Doc. 87-16635 Filed 7-21-87; 8:45 am]

BILLING CODE 4160-15-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[U-59095]

Proposed Reinstatement of Terminated Oil and Gas Lease; Utah

In accordance with Title IV of the Federal Oil and Gas Royalty Management Act (Pub. L. 97-451), a petition for reinstatement of oil and gas lease U-59095 for lands in San Juan County, Utah, was timely filed and requested rentals and royalties accruing from April 1, 1987, the date of termination, have been paid.

The lessee has agreed to new lease terms for rentals and royalties at rates of $5 per acre and 16⅔ percent respectively. The $500 administrative fee has been paid and the lessee has reimbursed the Bureau of Land Management for the cost of publishing this notice.

Having met all the requirements for reinstatement of lease U-59095 as set out in section 31 (d) and (e) of the Mineral Leasing Act of 1920 (30 U.S.C. 188), the Bureau of Land Management is proposing to reinstate the lease, effective April 1, 1987, subject to the original terms and conditions of the lease and the increased rental and royalty rates cited above.

Kemp Conn,

Associate State Director.

[FR Doc. 87-16581 Filed 7-21-87; 8:45 am]

BILLING CODE 4310-DQ-M

[AZ-040-07-4332-02]

Meeting of the Safford District (Arizona) Advisory Council

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of meeting.

SUMMARY: Notice is hereby given in accordance with Pub. L. 94-579 and 43 CFR Part 1780, that a meeting of the Safford District Advisory Council will be held.

DATE: Friday, August 21, 1987, at 10:00 a.m.

ADDRESS: BLM Safford District Office, 425 E. 4th Street, Safford, Arizona.

FOR FURTHER INFORMATION CONTACT: Gil Esquerdo, Public Affairs Specialist, Safford District Office, 425 E. 4th Street, Safford, Arizona 85546. Telephone (602) 428-4040.

SUPPLEMENTARY INFORMATION: The agenda for the meeting includes the following items: Land Exchanges; San Pedro Management Plan Update; Aravaipa Canyon Wilderness Management Plan Update; Districtwide planning update; Management update; and Business from the floor.

The meeting is open to the public. Interested persons may make oral statements to the Council between 1:30 and 2:30 p.m. or may file written statements for the Council's consideration. Anyone wishing to make an oral statement must contact the Safford District Manager by August 20, 1987. Depending upon the number of people wishing to make oral statements, a per person time limit may be considered.

Summary minutes of the meeting will be maintained in the District Office and will be available for public inspection and reproduction (during regular business hours) within 30 days following the meeting.

Dated: July 14, 1987.

Ray A. Brady,

District Manager.

[FR Doc. 87-16614 Filed 7-21-87; 8:45 am]

BILLING CODE 4310-32-M

Proposed Reinstatement of a Terminated Oil and Gas Lease; Alaska State Office

In accordance with Title IV of the Federal Oil and Gas Royalty Management Act (Pub. L. 97-451), a petition for reinstatement of oil and gas lease AA-48177-C has been received recovering the following land:

Copper River Meridian, Alaska

T. 10 N., R. 5 W.,
Sec. 32, E½NW¼.
(80 acres)

The proposed reinstatement of the lease would be under the same terms and conditions of the original lease, except the rental will be increased to $5 per acre per year, royalty increased to 16⅔ percent. The $500 administrative fee and the cost of publishing this Notice have been paid. The required rentals and royalties accruing from November 1, 1986, the date of termination, have been paid.

Having met all the requirements for reinstatement of lease AA-48177-C as set out in section 31 (d) and (e) of the Mineral Leasing Act of 1920 (30 U.S.C. 188), the Bureau of Land Management is proposing to reinstate the lease, effective November 1, 1986, subject to the terms and conditions cited above.

Dated: July 13, 1987.

Kay Kletka,

Chief, Branch of Mineral Adjudication.

[FR Doc. 87-16615 Filed 7-21-87; 8:45 am]

BILLING CODE 4310-JA-M

Proposed Reinstatement of a Terminated Oil and Gas Lease; Alaska State Office

In accordance with Title IV of the Federal Oil and Gas Royalty Management Act (Pub. L. 97-451), a petition for reinstatement of oil and gas lease AA-48819-BD has been received covering the following lands:

Copper River Meridian, Alaska

T. 7 S., R. 2 E.,
Sec. 28, SE¼SW¼.
(40 acres)

The proposed reinstatement of the lease would be under the same terms and conditions of the original lease, except the rental will be increased to $5 per acre per year, and royalty increased in 16⅔ percent. The $500 administrative fee and the cost of publishing this Notice have been paid. The required rentals and royalties accruing from October 1, 1986, the date of termination, have been paid.

Having met all the requirements for reinstatement of lease AA-48819-BD as set out in section 31 (d) and (e) of the Mineral Leasing Act of 1920 (30 U.S.C. 188), the Bureau of Land Management is proposing to reinstate the lease, effective October 1, 1986, subject to the terms and conditions cited above.

Dated: July 13, 1987

Kay F. Fletka,

Chief, Branch of Mineral Adjudication.

[FR Doc. 87-16616 Filed 7-21-87; 8:45 am]

BILLING CODE 4310-JA-M

Proposed Reinstatement of a Terminated Oil and Gas Lease; Alaska State Office

In accordance with Title IV of the Federal Oil and Gas Royalty Management Act (Pub. L. 97-451), a petition for reinstatement of oil and gas lease AA-48228-BX has been received covering the following lands:

Fairbanks Meridian, Alaska

T. 18 S., R. 2 W.,

Sec. 36, W½NW¼.
(80 acres)

The proposed reinstatement of the lease would be under the same terms and conditions of the original lease, except the rental will be increased to $5 per acre per year, and royalty increased to 16⅔ percent. The $500 administrative fee and the cost of publishing this Notice have been paid. The required rentals and royalties accruing from November 1, 1986, the date of termination, have been paid.

Having met all the requirements for reinstatement of lease AA–48228–BX as set out in section 31 (d) and (e) of the Mineral Leasing Act of 1920 (30 U.S.C. 188), the Bureau of Land Management is proposing to reinstate the lease, effective November 1, 1986, subject to the terms and conditions cited above.

Dated: July 13, 1987.

Kay F. Kletka,

Chief, Branch of Mineral Adjudication.

[FR Doc. 87–16617 Filed 7–21–87; 8:45 am]

BILLING CODE 4310–JA–M

[Alaska AA–48583–BO; AK–980–GP7–0060]

Proposed Reinstatement of a Terminated Oil and Gas Lease; Alaska

In accordance with Title IV of the Federal Oil and Gas Royalty Management Act (Pub. L. 97–451), a petition for reinstatement of oil and gas lease AA–48583–BO has been received covering the following lands:

Copper River Meridian, Alaska

T. 13 N., R. 7 W.,
Sec. 29, SW¼SW¼, SE¼SW¼.
(80 acres.)

The proposed reinstatement of the lease would be under the same terms and conditions of the original lease, except the rental will be increased to $5 per acre per year, and royalty increased to 16⅔ percent. The $500 administrative fee and the cost of publishing this Notice have been paid. The required rentals and royalties accruing from April 1, 1986, the date of termination, have been paid.

Having met all the requirements for reinstatement of lease AA–48583–BO as set out in section 31 (d) and (e) of the Mineral Leasing Act of 1920 (30 U.S.C. 188), the Bureau of Land Management is proposing to reinstate the lease, effective April 1, 1986, subject to the terms and conditions cited above.

Dated: July 13, 1987.

Kay F. Kletka,

Chief, Branch of Mineral Adjudication.

[FR Doc. 87–16618 Filed 7–21–87; 8:45 am]

BILLING CODE 4310–JA–M

[Alaska AA–48253–AS; AK–980–GP7–0061]

Proposed Reinstatement of a Terminated Oil and Gas Lease; Alaska

In accordance with Title IV of the Federal Oil and Gas Royalty Management Act (Pub. L. 97–451), a petition for reinstatement of oil and gas lease AA–48253–AS has been received covering the following lands:

Seward Meridian, Alaska

T. 32 N., R. 10 E.,
Sec. 28, SW¼.
(160 acres.)

The proposed reinstatement of the lease would be under the same terms and conditions of the original lease, except the rental will be increased to $5 per acre per year, and royalty increased to 16⅔ percent. The $500 administrative fee and the cost of publishing this Notice have been paid. The required rentals and royalties accruing from November 1, 1986, the date of termination, have been paid.

Having met all the requirements for reinstatement of lease AA–48253–AS as set out in section 31 (d) and (e) of the Mineral Leasing Act of 1920 (30 U.S.C. 188), the Bureau of Land Management is proposing to reinstate the lease, effective November 1, 1986, subject to the terms and conditions cited above.

Dated: July 13, 1987.

Kay F. Kletka,

Chief, Branch of Mineral Adjudication.

[FR Doc. 87–16619 Filed 7–21–87; 8:45 am]

BILLING CODE 4310–JA–M

[CA–060–07–4212–14; CA 18890]

Realty Action; San Diego County, CA

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of realty action, CA 18890.

SUMMARY: The following described land is suitable for sale under sections 203 and 209 of the Federal Land Policy and Management Act of 1976, 43 U.S.C 1713 (and 1719).

T. 10S., R. 4W., SBM.
Sec. 22, lot 4.
1.12 acres±.

The above described land is hereby segregated from operation of the public land laws and the mining laws, but not from sale under the above cited statute.

SUPPLEMENTARY INFORMATION: The purpose of the sale is to dispose of a small parcel which is isolated from other public land administered by the Bureau of Land Management (BLM), and therefore uneconomic for management by the BLM, and is not needed by any other Federal department or agency.

No significant resource values will be affected, and the public interest will be served by this disposal. The sale is consistent with the resource management objectives of the BLM's Southern California Metropolitan Project and is in conformance with the project's Escondido Management Framework Plan/Management Action Summary.

The sale will be conducted in accordance with the Code of Federal Regulations, Part 2710. In order to provide for consistent land use with surrounding agricultural development, the parcel will be offered to qualified bidders via modified competitive bidding procedures pursuant to 43 CFR 2711.3–2. Inasmuch as they are qualified to bid, the designated bidders for the sale will be limited to the owners of the two adjacent parcels of private land. These current owners are (1) Joe Ukegawa (50%)/Hiroshi Ukegawa (50%), and (2) Earl and Karen Schultz, Trustees (25%)/Valley View Investments (75%).

The bidding instructions are as follows:

1. Sealed bids must be submitted to the BLM's Indio Resource Area at 1900 E. Tahquitz-McCallum Way, Suite B–1, Palm Springs, CA 92262, no later than 4:30 p.m. September 29, 1987.

2. Sealed bids must be for not less than the appraised fair market value of $4,000.

3. Each bid shall be accompanied by certified check, postal money order, bank draft or cashiers check made payable to the Bureau of Land Management for 20% of the amount bid.

4. The sealed bid envelopes must be marked "Bid for Public Land Sale—CA 18890" in the front lower left corner.

The sealed bids will be opened at the Indio Resource Area Office beginning at 10:00 a.m. on September 20, 1987. The highest qualifying bid received shall be publicly declared by the authorized officer. If 2 bids are received and they are of the same amount, the determination of the high bid will be through supplemental oral bidding to be conducted beginning at 10:00 a.m. on October 14, 1987 at the Indio Resource Area Office.

If no sealed bids are received, or if the parcel is not sold by October 14, 1987 for any reason, it will be made available through competitive sale to all qualified bidders for a sale to be conducted on December 16, 1987. The sealed bids for this sale (if it is necessary) must be submitted according to the instructions for the September 30, 1987 sale except that all bids must be received by the

Indio Resource Area Office no later than 4:30 p.m. on December 15, 1987. Any and all sealed bids received will be opened at the Indio Resource Area Office beginning at 10:00 a.m. on December 16, 1987. If two or more bids of the same amount are received, the determination of the high bid will be by supplemental oral bidding to be conducted immediately after all sealed bids are opened.

In the event of oral bidding, the highest qualifying oral bidder shall submit an additional payment needed to maintain a 20% bid deposit to the authorized officer immediately following the sale. Such payment shall be by cash, personal check, bank draft, money order, or any combination. The successful bidder, whether such bid is a sealed or oral bid, shall submit the remainder of the full bid price prior to the expiration of 180 days from the date of the sale. Failure to submit the full bid price within the period specified above, shall result in cancellation of the sale and the deposit shall be forfeited.

A successful bid will also constitute an application for the conveyance of all mineral interests, which are of no known value. The declared high bidder will be required to deposit a $50.00 non-refundable application fee and the mineral estate will be conveyed simultaneously with the surface estate in accordance with 43 CFR 2720.1-2(c). Failure to deposit this filing fee will result in disqualification as the high bidder.

All unsuccessful bids and payments submitted to the Authorized Officer will be returned to the parties that submitted them within two weeks after the sale date.

The patent issued for this parcel will reserve to the United States a right-of-way for ditches or canals constructed by the authority of the United States. Act of August 30, 1890 (43 U.S.C. 945).

All bidders must be either: (1) 18 years of age or older and provide proof of U.S. citizenship; or (2) a State, State instrumentality or political subdivision authorized to hold property; or (3) a corporation authorized to own real estate in the State of California; or (4) an entity legally capable of conveying and holding lands or interests therein under the laws of the State of California, and where applicable, the entity shall also meet the requirements of 1 and 3 above.

The BLM may reject any and all bids or withdraw the land from sale at anytime, if in the opinion of the Authorized Officer, consummation of the sale would not be in the best interest of the United States.

FOR FURTHER INFORMATION CONTACT: Duane Winters, Indio Resource Area, (619) 323-4421. Information relating to this sale, including the environmental assessment and land report, is available for review at the California Desert District Office, 1695 Spruce Street, Riverside, California 92507.

DATE: For a period on or before September 8, 1987, interested parties may submit comments to the California Desert District Manager at 1695 Spruce Street, Riverside, CA 92507. Any objections will be reviewed by the California State Director, who may sustain, vacate or modify this realty action. In the absence of any objections, this realty action will become the final determination of the Department of the Interior.

Dated: July 13, 1987.

Wesley Chambers,

Lands and Renewable Resources.

[FR Doc. 87-16620 Filed 7-21-87; 8:45 am]

BILLING CODE 4310-40-M

[NV-930-07-4212-11; N-43395]

Reality Action; Lease/Purchase for Recreation and Public Purposes; Clark County, NV

The following described public land in Clark County, Nevada has been identified and examined and will be classified as suitable for lease/purchase under the Recreation and Public Purpose Act, as amended (43 U.S.C. 869 *et seq.*). The lands will not be offered for lease/purchase until at least 60 days after the date of publication of this notice in the **Federal Register.**

Mount Diablo Meridian, Nevada

T. 19 S., R. 62 E.,

Sec. 5; sec. 8, W½; sec. 15; sec. 16; sec. 17; sec. 20;
Sec. 21, N½, SW¼, N½SE¼, and SW¼SE¼; sec. 22, N½ and E½SE¼.

This parcel of land contains approximately 4,523.24 acres. The Nevada Military Department intends to use the land for an armory complex. The lease and/or patent, when issued, will be subject to the provisions of the Recreation and Public Purposes Act and applicable regulations of the Secretary of the Interior.

It will contain reservations to the United States for ditches, canals and all minerals. It will be subject to existing reservations to the Union Pacific Railroad Company, the U.S. Army Corps of Engineers, Nevada Power Company, and the Nevada Department of Transportation for railroad purposes, powerline purposes, access road purposes, highway purposes, material site purposes, and military reservation purposes.

The land is not required for any federal purpose. The lease/purchase is consistent with the Bureau's planning for this area.

Upon publication of this notice in the **Federal Register,** the above described land will be segregated from all forms of appropriation under the public land laws, including the general mining laws, except for recreation and public purposes and leasing under the mineral leasing laws.

Detailed information concerning this action is available for review at the office of the Bureau of Land Management, Las Vegas District, 4765 W. Vegas Drive, Las Vegas, Nevada.

For a period of 45 days from the date of publication of this notice in the **Federal Register,** interested parties may submit comments to the District Manager, Las Vegas District, P.O. Box 26569, Las Vegas, Nevada 89126. Any adverse comments will be reviewed by the State Director. In the absence of any adverse comments, the classification of the lands described in this Notice will become effective 60 days from the date of publication in the **Federal Register.**

Dated: July 13, 1987.

Ben F. Collins,

District Manager, Las Vegas, NV.

[FR Doc. 87-16621 Filed 7-21-87; 8:45 am]

BILLING CODE 4310-HC-M

[AZ-010-07-4410-02]

Arizona Strip District Resource Management Plan Preparation

AGENCY: Bureau of Land Management, Interior.

ACTION: Notification of Resource Management Plan Preparation for the Arizona Strip District, Arizona.

ADDRESS: Comments or requests for information should be directed to Dennis Curtis, Team Leader, Bureau of Land Management, Arizona Strip District, 390 North 3050 East, St. George, Utah 84770. Telephone (801) 673-3545.

SUMMARY: The Arizona Strip District, Bureau of Land Management announces its intent to prepare a Resource Management Plan (RMP) for approximately 2,738,000 acres of public land located in Coconino and Mohave Counties, Arizona. The Arizona Strip District lies along the southwest edge of the Colorado Plateau physiographic province. The western portion of the District west of the Grand Wash Cliffs lies within the Basin and Range physiographic province. Relief of the

area has been determined largely by the carving of the major tributaries to the Colorado River including the Paria River, Kanab Creek and the Virgin River. Elevations range from over 8,000 feet in the Virgin Mountains and Mt. Trumbull to less than 2,000 feet near lower Grand Wash.

SUPPLEMENTARY INFORMATION: The Bureau of Land Management has completed the preplanning phase of the RMP process. The primary emphasis of this phase has been to identify preliminary planning issues and planning criteria. Five preliminary issues were identified as topics of public controversy. Briefly, they are to determine:

1. Which lands should BLM attempt to acquire to better meet long term public interests? Which public lands are needed by private or local community interests to meet future demands?

2. How should BLM plan for future recreational demands?

3. How should BLM manage the Arizona Strip's special resource values such as cultural, visual, forestry, threatened and endangered species, riparian and wildlife resources to meet public demands while protecting their special values?

4. How can road systems associated with mineral development, public access and other purposes best be managed to accomplish multiple use objectives?

5. How can the BLM manage mineral exploration and development to meet the public needs and values on the Arizona Strip?

Planning criteria are guidelines established to structure development of the RMP and guide the estimation of effects from the various alternatives considered. Preliminary planning criteria have been developed for issue identification, alternative formulation and estimation of effects.

The public will have opportunities to provide input into this RMP via public scoping meetings, mail distribution of information, news media releases, **Federal Register** notices and public reviews of all documents at appropriate stages of the planning process. A public participation plan has been developed as part of the preplanning analysis. Documents relevant to the planning process are available from the above address.

FOR FURTHER INFORMATION CONTACT: Interested persons wishing to participate in issue identification, development of planning criteria, alternatives or other phases of the planning process should contact Dennis Curtis, Team Leader at the above address.

G. William Lamb,

Arizona Strip District Manager.

July 13, 1987.

[FR Doc. 87-16622 Filed 7-21-87; 8:45 am]

BILLING CODE 4310-32-M

[CO-940-07-4220-11; C-28310]

Proposed Continuation of Withdrawal; Colorado

July 14, 1987.

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The Forest Service, U.S. Department of Agriculture, proposes that the order which withdrew lands for an indefinite period of time for the Brewery Creek Administrative Site, be modified and the withdrawal be continued for 20 years insofar as it affects 10 acres of public land. The land will remain closed to surface entry and mining, but not to mineral leasing.

DATE: Comments should be received on or before October 20, 1987.

ADDRESS: Comments should be addressed to State Director, Colorado State Office, 2850 Youngfield Street, Lakewood, Colorado 80215.

FOR FURTHER INFORMATION CONTACT: Doris E. Chelius, BLM Colorado State Office, 303-236-1768.

The Forest Service, U.S. Department of Agriculture, proposes that the existing withdrawal made by Executive Order January 9, 1933, for an indefinite period of time, be modified to expire in 20 years pursuant to section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751, 43 U.S.C. 1714, insofar as it affects the following identified lands:

New Mexico Principal Meridian

T. 47 N., R. 7 E.,
Sec. 35, W½NE¼SE¼NW¼ and E½NW¼SE¼NW¼.

The area described aggregates 10 acres in Saguache County.

The purpose of this withdrawal is for the administration and protection of the Brewery Creek Administrative Site. No change is proposed in the purpose or segregative effect of the withdrawal. The land will continue to be withdrawn from surface entry and mining, but not from mineral leasing.

For a period of 90 days from the date of publication of this notice, all persons who wish to submit comments in connection with this proposed action may present their views in writing to this office.

The authorized officer of the Bureau of Land Management will undertake such investigations as are necessary to determine the existing and potential demand for the land and its resources. A report will be prepared for consideration by the Secretary of the Interior, the President, and Congress, who will determine whether or not the withdrawal will be modified and continued and, if so, for how long. Notice of the final determination will be published in the **Federal Register**. The existing withdrawal will continue until such determination is made.

Richard D. Tate,

Acting Chief, Branch of Lands and Minerals Operations.

[FR Doc. 87-16623 Filed 7-21-87; 8:45 am]

BILLING CODE 4310-JB-M

[AK-967-4213-15; AA-6978-A]

Alaska Native Claims Selection; Kootznoowoo, Inc.

In accordance with Departmental regulation 43 CFR 2650.7(d), notice is hereby given that a decision to issue conveyance under the provisions of section 14(b) of the Alaska Native Claims Settlement Act of December 18, 1971, 43 U.S.C. 1601, 1613(b), will be issued to Kootznoowoo, Incorporated, for approximately 3,665 acres. The lands involved are in the vicinity of Angoon, Alaska.

Copper River Meridian

T. 76 S., R. 88 E. (Unsurveyed)
T. 77 S., R. 87 E. (Unsurveyed)
T. 77 S., R. 88 E. (Unsurveyed)
T. 77 S., R. 89 E. (Unsurveyed)
T. 78 S., R. 87 E. (Unsurveyed)
T. 78 S., R. 88 E. (Unsurveyed)

A notice of the decision will be published once a week, for four (4) consecutive weeks, in the JUNEAU EMPIRE. Copies of the decision may be obtained by contacting the Bureau of Land Management, Alaska State Office, 701 C Street, Box 13, Anchorage, Alaska 99513 ((907) 271-5960).

Any party claiming a property interest which is adversely affected by the decision, an agency of the Federal government or regional corporation, shall have until August 21, 1987, to file an appeal. However, parties receiving service by certified mail shall have 30 days from the date of receipt to file an appeal. Appeals must be filed in the Bureau of Land Management, Division of Conveyance Management (960), address identified above, where the requirements for filing an appeal may be obtained. Parties who do not file an appeal in accordance with the

requirements of 43 CFR Part 4, Subpart E, shall be deemed to have waived their rights.

Terry R. Hassett,

Chief, Branch of KCS Adjudication.

[FR Doc. 87-16671 Filed 7-21-87; 8:45 am]

BILLING CODE 4310-JA-M

Minerals Management Service

Assessments for Incorrect or Late Reports and Failure To Report

AGENCY: Minerals Management Service (MMS), Interior.

ACTION: Notice of assessment rates.

SUMMARY: The Minerals Management Service (MMS) has existing regulations at 30 CFR 216.40 and 218.40 which provide for assessments in the nature of liquidated damages for incorrect or late reports and failure to report production and royalty information by payors, operators, or lessees on Federal and Indian leases. The regulations require that the assessment amount (rate) for each violation will be established periodically based on MMS's experience with costs and improper reporting and that a Notice of the established assessment rate will be published in the **Federal Register**. This Notice establishes the assessment rates in accordance with the regulations.

EFFECTIVE DATE: The assessment rates established in this Notice will apply to reports received on or after September 1, 1987. These rates will remain in effect until a subsequent Notice is published in the **Federal Register** which changes the assessment rates.

FOR FURTHER INFORMATION CONTACT: Dennis C. Whitcomb, Chief, Rules and Procedures Branch, Minerals Management Service, P.O. Box 25165, MS-652, Building 85, Denver Federal Center, Denver, Colorado, telephone (303) 231-3432.

SUPPLEMENTARY INFORMATION: The purpose of this Notice is to inform the public of assessment rates for incorrect and late reports and failure to report production and royalty information to the MMS automated Production Accounting and Auditing System (PAAS) and the Auditing and Financial System (AFS) on Federal and Indian leases pursuant to established regulations. The regulations at 30 CFR 216.40 and 218.40 were amended by a **Federal Register** Notice published elsewhere in this issue, which provides that the assessment would be a variable amount not to exceed $10 per day for each late report or $10 for each erroneous report. Prior to that Notice, the regulations fixed the assessments at $10 per day for each late report and $10 for each erroneous report. A report is defined at 30 CFR 216.40(c) and 218.40(c) as each line of required production or royalty information.

Nonrespondent Exceptions

Paragraph (a) at 30 CFR 216.40 218.40 provides that an assessment of an amount not to exceed $10 per day may be charged for each production or royalty report not received by MMS by the designated due date. This includes both late reports and failure to report which are classified by MMS as "nonrespondent exceptions." Based on actual costs incurred, the rate established by MMS for "nonrespondent exceptions" will be $3 per month for reports under PAAS and $10 per month under AFS. These rates will be assessed for each line item of production or royalty information that is due after the effective date of this Notice, received late by MMS, or not reported. The total assessment shall not exceed $10,000 per operator or payor code per report month for each report made under the PAAS or the AFS.

Erroneous Reporting

PAAS

Paragraph (b) at 30 CFR 216.40 provides that an assessment of an amount not to exceed $10 may be charged for each production report under the PAAS received by the designated due date but which is incorrectly completed. At the present time, MMS has not implemented assessments for erroneous reports made under the PAAS. A Notice of the assessment rate(s) for PAAS erroneous reporting will be published in the **Federal Register** at a future date prior to implementation of assessments.

AFS

Paragraph (b) at 30 CFR 218.40 provides that an assessment of an amount not to exceed $10 may be charged for each royalty report received by the designated due date but which is incorrectly completed. Based on actual costs incurred to correct erroneous reports, MMS has established the following assessment rate schedule for erroneous royalty reporting.

1-100 lines in error—$ 5.00 per line
101-500 lines in error—$ 8.00 per line
Over 500 lines in error—$10.00 per line

A reduced rate of $3 per line will be assessed for erroneous lines caused by a header error, or for erroneous lines caused by the same error which is repeated on every line of a royalty report.

These rates will be assessed for each incorrect line item of royalty information received by MMS after the effective date of this Notice. The total assessment shall not exceed $10,000 per payor code per report month for reports made to the AFS.

Dated: July 16, 1987.

David W. Crow,

Acting Director, Minerals Management Service.

[FR Doc. 87-16654 Filed 7-21-87; 8:45 am]

BILLING CODE 4310-MR-M

INTERNATIONAL TRADE COMMISSION

[Investigations Nos. 701-TA-287 (Preliminary) and 731-TA-378 (Preliminary)]

Certain Electrical Conductor Aluminum Redraw Rod From Venezuela [1]

AGENCY: United States International Trade Commission.

ACTION: Institution of preliminary countervailing duty and antidumping investigations and scheduling of a conference to be held in connection with the investigations.

SUMMARY: The Commission hereby gives notice of the institution of preliminary countervailing duty investigation No. 701-TA-287 (Preliminary) under section 703(a) of the Tariff Act of 1930 (19 U.S.C. 1671b(a)) to determine whether there is a reasonable indication that an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports from Venezuela of electrical conductor aluminum redraw rod, provided for in item 618.15 of the Tariff Schedules of the United States, that are alleged to be subsidized by the Government of Venezuela.

The Commission also gives notice of the institution of preliminary antidumping investigation No. 731-TA-378 (Preliminary) under section 733(a) of the Tariff Act of 1930 (19 U.S.C. 1673b(a)) to determine whether there is a reasonable indication that an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports from venezuela of electrical conductor aluminum redraw rod, provided for in item 618.15 of the Tariff Schedules of the United States, that are alleged to be sold in the United States at less than fair value.

[1] For purposes of these investigations the term "electrical conductor aluminum redraw rod" refers to wrought rods of aluminum which are electrically conductive and contain not less than 99 percent of aluminum by weight.

As provided in sections 703(a) and 733(a), the Commission must complete preliminary countervailing duty and antidumping investigations in 45 days, or in these cases by August 28, 1987. For further information concerning the conduct of these investigations and rules of general application, consult the Commission's rules of practice and procedure, Part 207, Subparts A and B (19 CFR Part 207), and Part 201, Subparts A through E (19 CFR Part 201).

EFFECTIVE DATE: July 14, 1987.

FOR FURTHER INFORMATION CONTACT: Brian Walters (202–523–0104), Office of Investigations, U.S. International Trade Commission, 701 E Street NW., Washington, DC 20436. Hearing-impaired individuals may obtain information on this matter by contacting the Commission's TDD terminal on 202–724–0002. Information may also be obtained via electronic mail by calling the Office of Investigations' remove bulletin board system for personal computers at 202–523–0103. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202–523–0161.

SUPPLEMENTARY INFORMATION:

Background

These investigations are being instituted in response to petitions filed on July 14, 1987, by Southwire Company, Carrollton, Georgia.

Participation in the Investigations

Persons wishing to participate in the investigations as parties must file an entry of appearance with the Secretary of the Commission, as provided in § 201.11 of the Commission's rules (19 CFR 201.11), not later than seven (7) days after publication of this notice in the **Federal Register**. Any entry of appearance filed after this date will be referred to the Chairman, who will determine whether to accept the late entry for good cause shown by the person desiring to file the entry.

Service List

Pursuant to § 201.11(d) of the Commission's rules (19 CFR 201.11(d)), the Secretary will prepare a service list containing the names and addresses of all persons, or their representatives, who are parties to these investigations upon the expiration of the period for filing entries of appearance. In accordance with §§ 201.16(c) and 207.3 of the rules (19 CFR 201.16(c) and 207.3), each document filed by a party to the investigations must be served on all other parties to the investigations (as identified by the service list), and a certificate of service must accompany the document. The Secretary will not accept a document for filing without a certificate of service.

Conference

The Commission's Director of Operations has scheduled a conference in connection with these investigations for 9:30 a.m. on August 6, 1987, at the U.S. International Trade Commission Building, 701 E Street NW., Washington, DC. Parties wishing to participate in the conference should contact Brian Walters (202–523–0104) not later than August 3, 1987, to arrange for their appearance. Parties in support of the imposition of countervailing and/or antidumping duties in these investigations and parties in opposition to the imposition of such duties will each be collectively allocated one hour within which to make an oral presentation at the conference.

Written Submissions

Any person may submit to the Commission on or before August 12, 1987, a written statement of information pertinent to the subject of the investigations, as provided in § 207.15 of the Commission's rules (19 CFR 207.15). A signed original and fourteen (14) copies of each submission must be filed with the Secretary to the Commission in accordance with § 201.8 of the rules (19 CFR 201.8). All written submissions except for confidential business data will be available for public inspection during regular business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary to the Commission.

Any business information for which confidential treatment is desired must be submitted separately. The envelope and all pages of such submissions must be clearly labeled "Confidential Business Information." Confidential submissions and requests for confidential treatment must conform with the requirements of § 201.6 of the Commission's rules (19 CFR 201.6).

Authority: These investigations are being conducted under authority of the Tariff Act of 1930, title VII. This notice is published pursuant to § 207.12 of the Commission's rules (19 CFR 207.12).

By order of the Commission.

Issued: July 17, 1987.

Kenneth R. Mason,

Secretary.

[FR Doc. 87–16644 Filed 7–21–87; 8:45 am]

BILLING CODE 7020–02–M

[Investigation No. 337–TA–260]

Commission Decision Not to Review Initial Determination Granting Motion for Summary Determination; Certain Feathered Fur Coats and Pelts, and Process for the Manufacture Thereof

AGENCY: U.S. International Trade Commission.

ACTION: Nonreview of an initial determination granting a motion for summary determination on the issue of patent validity.

SUMMARY: The Commission has determined not to review the initial determination (ID) of the presiding administrative law judge (ALJ) granting complainants' motion for summary determination on the issue of patent validity.

FOR FURTHER INFORMATION CONTACT: Randi S. Field, Esq., Office of the General Counsel, U.S. International Trade Commission, telephone 202–523–0261.

SUPPLEMENTARY INFORMATION: On June 10, 1987, the presiding ALJ issued an ID (Order No. 15) granting complainants' renewed motion for summary determination on the issue of patent validity. No petitions for review have been received. No agency comments have been received.

This action is taken under the authority of section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) and in §§ 210.53–210.55 of the Commission's rules of practice and procedure (19 CFR 210.53–210.55).

Copies of all non-confidential documents filed in connection with this investigation are available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 701 E Street NW., Washington, DC 20436, telephone 202–523–0161. Hearing-impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202–724–0002.

By order of the Commission.

Kenneth R. Mason,

Secretary.

Issued: July 13, 1987.

[FR Doc. 87–16642 Filed 7–21–87; 8:45 am]

BILLING CODE 7020–02–M

[Investigation No. 337-TA-261]

Commission Decision Not To Review Initial Determination Declaring the Investigation More Complicated; Certain Ink Jet Printers Employing Solid Ink

AGENCY: U.S. International Trade Commission.

ACTION: The Commission has determined not to review an initial determination (ID) declaring the above-captioned investigation more complicated, and extending the deadline for completion of the investigation by six months, i.e. until August 4, 1988.

FOR FURTHER INFORMATION CONTACT: Charles H. Nalls, Esq., Office of the General Counsel, U.S. International Trade Commission, 701 E Street NW., Washington, DC 20436, telephone 202-523-1626. Hearing impaired individuals may obtain information on this matter by contacting the Commission's TDD terminal at 202-724-0002.

SUPPLEMENTARY INFORMATION: On June 23, 1987, the presiding administrative law judge (ALJ) issued an ID (Order No. 11) that granted complainants' and respondents' joint motion to designate the investigation "more complicated," and extended the deadline for completion of the investigation by six months. No petitions for review were received and no comments were received from other Government agencies.

The authority for the Commission's action in this matter may be found in 19 U.S.C. 1337(b)(1) and 19 CFR 210.53.

Copies of the ALJ's ID and all other nonconfidential documents filed in connection with this investigation are available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 701 E Street NW., Washington, DC 20436, telephone 202-523-0161.

By order of the Commission.

Issued: July 13, 1987.

Kenneth R. Mason,

Secretary.

[FR Doc. 87-16641 Filed 7-21-87; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 337-TA-225]

Institution of Advisory Opinion Proceedings and Rejection of Motion for Modification or Dissolution of General Exclusion Order

AGENCY: U.S. International Trade Commission.

ACTION: Institution of advisory opinion proceedings and rejection of motion for modification or dissolution of general exclusion order.

SUMMARY: The Commission has accepted the request of Lustrelon, Inc., for advisory opinion proceedings. The Commission has certified the request to the Chief administrative law judge, or such Commission administrative law judge (ALJ) as she shall designate, for appropriate adversary proceedings, and has directed the issuance of an initial advisory opinion (IAO) as to whether Lustrelon's imported articles are distinct from those previously considered by the Commission and whether Lustrelon's imported articles infringe the patent at issue. The IAO is to be consistent with the Commission's determination in the original investigation. The issue of access to the confidential record has been referred to the presiding ALJ. The IAO is to be issued as expeditiously as possible, preferably within 6 months. Lustrelon's Motion for Modification or Dissolution of General Exclusion Order is rejected. Lustrelon's Motion for Interim Relief is denied.

FOR FURTHER INFORMATION CONTACT: John Kingery, Esq., Office of the General Counsel, U.S. International Trade Commission, telephone 202-523-1638.

SUPPLEMENTARY INFORMATION: These actions are taken under authority of section 337 of the Tariff act of 1930 (19 U.S.C. 1337), and Commission rules §§ 211.54(b) and 211.57 (19 CFR 211.54(b) and 211.57).

Copies of the Commission's action and order and all other nonconfidential documents filed in connection with this investigation are available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 701 E Street NW., Washington, DC 20436, telephone 202-523-0161.

Hearing impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202-724-0002.

By order of the Commission.

Kenneth R. Mason,

Secretary.

Issued: July 16, 1987.

[FR Doc. 87-16643 Filed 7-21-87; 8:45 am]

BILLING CODE 7020-02-M

Certain Noncontact Tonometers; Investigation

[Investigation No. 337-TA-270]

AGENCY: U.S. International Trade Commission.

ACTION: Institution of investigation pursuant to 19 U.S.C. 1337.

SUMMARY: Notice is hereby given that a complaint and a motion for temporary relief were filed with the U.S. International Trade Commission on June 18, 1987, pursuant to section 337 of the Tariff Act of 1930 (19 U.S.C. 1337), on behalf of Cambridge Instruments, Inc., P.O. Box 123, Buffalo, New York 14240. A supplement to the complaint was filed on July 1, 1987. The complaint, as supplemented, alleges unfair methods of competition and unfair acts in the importation of certain noncontact tonometers into the United States, and in their sale or solicitation for sale, by reason of alleged (1) direct and/or induced infringement of at least claims 3 and 4 of U.S. Letters Patent 3,585,849 by respondents Keeler Holdings, Ltd., Keeler Optical Products, Ltd., Keeler Instruments, Inc., Tokyo Optical Co., Ltd., and Topcon Instrument Corporation of America; (2) direct and/or induced infringement of at least claim 1 of U.S. Letters Patent 3,756,073 by respondents Keeler Holdings, Ltd., Keeler Optical Products, Ltd., Keeler Instruments, Inc., Tokyo Optical Co., Ltd., and Topcon Instrument Corporation of America; (3) direct and/or induced infringement of at least claim 1 of U.S. Letters Patent 4,386,611 by respondents Keeler Holdings, Ltd., Keeler Optical Products, Ltd., and Keeler Instruments, Inc.; (4) Induced infringement of at least claims 3 and 4 of U.S. Letters Patent 3,585,849 by respondent P.A. Consulting Services, Ltd.; and (5) induced infringement of at least claim 1 of U.S. Letters Patents 3,756,073 and 5,386,611 by respondent P.A. Consulting Services, Ltd. The complaint further alleges that the effect or tendency of the unfair methods of competition and unfair acts is to destroy or substantially injure an industry, efficiently and economically operated, in the United States.

The complainant requests that the Commission institute an investigation, conduct temporary relief proceedings, and issue a temporary exclusion order prohibiting importation of the articles in question into the United States, except under bond, and temporary cease and desist orders. After a full investigation, the complainant requests that the Commission issue a permanent exclusion order and permanent cease and desist orders.

FOR FURTHER INFORMATION CONTACT: T. Spence Chubb, Esq., Office of Unfair Import Investigations, U.S. International Trade Commission, telephone 202-523-2823.

Authority: The authority for institution of this investigation is contained in section 337 of the Tariff Act of 1930 and in § 210.12 of the Commission's rules of practice and procedure (19 CFR 210.12).

Scope of Investigation: Having considered the complaint, the U.S. International Trade Commission, on July 16, 1987, *Ordered That*—

(1) Pursuant to subsection (b) of section 337 of the Tariff Act of 1930, an investigation be instituted to determine whether there is a violation of subsection (a) of section 337 in the unlawful importation of certain noncontact tonometers into the United States, or in their sale, by reason of alleged (1) direct and induced infringement of claims 3 and 4 of U.S. Letters Patent 3,585,849 by respondents Keeler Holdings, Ltd., Keeler Optical Products, Ltd., Keeler Instruments, Inc., Tokyo Optical Co., Ltd., and Topcon Instrument Corporation of America; (2) direct and induced infringment of claim 1 of U.S. Letters Patent 3,756,073 by respondents Keeler Holdings, Ltd., Keeler Optical Products, Ltd., Keeler Instruments, Inc., Tokyo Optical Co., Ltd., and Topcon Instrument Corporation of America; (3) direct and induced infringement of claim 1 of U.S. Letters Patent 4,386,611 by respondents Keeler Holdings, Ltd., Keeler Optical Products, Ltd., Keeler Instruments, Inc.; (4) induced infringement of claims 3 and 4 of U.S. Letters Patent 3,585,849 by respondent P.A. Consulting Services, Ltd.; and (5) induced infringement of claim 1 of U.S. Letters Patents 3,756,073 and 4,386,611 by respondent P.A. Consulting Services, Ltd., the effect or tendency of which is to destroy or substantially injure an industry, efficiently and economically operated, in the United States.

(2) Pursuant to § 210.24(e) of the Commission's rules, the motion for temporary relief under subsections (e) and (f) of section 337 of the Tariff Act of 1930, which was filed with the complaint, shall be forwarded to the presiding administrative law judge for an initial determination pursuant to § 210.53(b) of the rules;

(3) For the purpose of the investigation so instituted, the following are hereby named as parties upon which this notice of investigation shall be served:

(a) The complainant is—Cambridge Instruments, Inc., P.O. Box 123, Buffalo, New York 14240.

(b) The respondents are the following companies, alleged to be in violation of section 337, and are the parties upon which the complaint is to be served:

Keeler Holdings Ltd., Clewer Hill Road, Windsor, Berkshire, SL4, 4AA, United Kingdom

Keeler Optical Products, Ltd., Clewer Hill Road, Windsor, Berkshire, SL4, 4AA, United Kingdom

Keeler Instruments, Inc., 456 Parkway, Broomall, Pennsylvania 19008

P.A. Consulting Services, Ltd., Hyde Park House, 80a Knightsbridge, London, SW., 1X, United Kingdom

Tokyo Optical Co., Ltd., 75–1 Hassunuma-cho Itabashi-Ku, Tokyo, Japan

Topcon Instrument Corporation of America, 65 West Century Road, Paramus, New Jersey 07652

(c) T. Spence Chubb, Esq., Office of Unfair Import Investigations, U.S. International Trade Commission, 701 E Street NW, Room 126, Washington, DC 20436, shall be the Commission investigative attorney, party to this investigation; and

(4) For the investigation so instituted Janet D. Saxon, Chief Administrative Law Judge, U.S. International Trade Commission, shall designate the presiding administrative law judge.

Responses to the complaint and notice of investigation must be submitted by the named respondents in accordance with § 210.21 of the Commission's rules of practice and procedure (19 CFR 210.21). Pursuant to §§ 201.16(d) and 210.21(a) of the rules (19 CFR 201.16(d) and 210.21(a)), such responses will be considered by the Commission if received not later than 20 days after the date of service of the complaint. Responses to the motion for temporary relief may be submitted by the named respondents in accordance with § 210.24(e)(3) of the Commission's rules. Any such responses must be filed within 20 days after service of the motion. Extensions of time for submitting response to this complaint and/or motion for temporary relief will not be granted unless good cause therefor is shown.

Failure of a respondent to file a timely response to each allegation in the complaint and in this notice may be deemed to constitute a waiver of the right to appear and contest the allegations of the complaint and this notice, and to authorize the administrative law judge and the Commission, without further notice to the respondent, to find the facts to be as alleged in the complaint and this notice and to enter both an initial determination and a final determination containing such findings.

The complaint and motion for temporary relief, except for any confidential information contained therein, are available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 701 E Street NW., Room 156, Washington, DC. 20436, telephone 202–523–0471. Hearing-impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202–724–0002.

By order of the Commission.

Kenneth R. Mason,

Secretary.

Issued: July 17, 1987.

[FR Doc. 87–16648 Filed 7–21–87; 8:45am]

BILLING CODE 7020–02–M

[Investigation No. 377–TA–269]

Certain Picture-In-A-Picture Video Add-On Products and Components Thereof, Investigation

AGENCY: U.S. International Trade Commission.

ACTION: Institution of investigation pursuant to 19 U.S.C. 1337.

SUMMARY: Notice is hereby given that a complaint and a motion for temporary relief were filed with the U.S. International Trade Commission on June 17, 1987, under section 337 of the Tariff Act of 1930 (19 U.S.C. 1337), on behalf of MultiVision Products, Inc., 1751 Fox Drive, San Jose, California 95131–2312. The complaint alleges unfair methods of competition and unfair acts in the importation into the United States on certain picture-in-a-picture video add-on products and components thereof, and in their sale, by reason of alleged (1) misappropriation of trade secrets and proprietary information; (2) fraud, conspiracy to defraud, and constructive fraud; and (3) misappropriation of trade dress. The complaint further alleges that the effect or tendency of the unfair methods of competition and unfair acts is to destroy or substantiallly injure an industry, efficiently and economically operated, in the United States.

The complainant requests that the Commission institute an investigation, conduct temporary relief proceedings, and issue a temporary exclusion order prohibiting importation of the articles in question into the United States, and temporary cease and desist orders. After a full investigation, the complainant requests that the Commission issue a permanent exclusion order and permanent cease and desist orders.

FOR FURTHER INFORMATION CONTACT: Gary Rinkerman, Esq., Office of Unfair Import Investigations, U.S. International Trade Commission, telephone 202–523–1273.

Authority: The authority for institution of this investigation is contained in section 337 of the Tariff Act of 1930 and in § 210.12 of the Commission's rules of practice and procedure (19 CFR 210.12).

Scope of Investigation: Having considered the complaint, the U.S. International Trade Commission, on July 16, 1987, *Ordered That*—

(1) Pursuant to subsection (b) of section 337 of the Tariff Act of 1930, an investigation be instituted to determine whether there is a violation of subsection (a) of section 337 in the unlawful importation into the United States of certain picture-in-a-picture video add-on products and components thereof, or in their sale, by reason of alleged (1) misappropriation of trade secrets and proprietary information; (2) fraud, conspiracy to defraud, and constructive fraud; and (3) misappropriation of trade dress, the effect or tendency of which is to destroy or substantially injure an industry, efficiently and economically operated, in the United States;

(2) Pursuant to § 210.24(e) of the Commission rules, the motion for temporary relief under subsections (e) and (f) of section 337 of the Tariff Act of 1930, which was filed with the complaint, shall be forwarded to the presiding administrative law judge for an initial determination pursuant to § 210.53(b) of the rules;

(3) For the purpose of the investigation so instituted, the following are hereby named as parties upon which this notice of investigation shall be served:

(a) The complainant is—MultiVision Products, Inc. 1751 Fox Drive San Jose, CA 95131–2312

(b) The respondents are the following companies, alleged to be in violation of section 337, and are the parties upon which the complaint is to be served:

General Electronics (Hong Kong) Ltd. 64 Hoi Yuen Road Kwun Tong, Kowloon, Hong Kong

Rabbit Systems, Inc. 233 Wilshire Boulevard Santa Monica, CA 90401

MarketCorp Ventures 285 Riverside Avenue Westport, CT 06880

(c) Gary Rinkerman, Esq., Office of Unfair Import Investigations, U.S. International Trade Commission, 701 E Street NW., Room 128, Washington, DC 20436, shall be the Commission investigative attorney, party to this investigation; and

(4) For the investigation so instituted, Janet D. Saxon, Chief Administrative Law Judge, U.S. International Trade Commission, shall designate the presiding administrative law judge.

Responses must be submitted by the named respondents in accordance with section 210.21 of the Commission's rules of practice and procedure (19 CFR 210.21). Pursuant to §§ 201.16(d) and 210.21(a) of the rules (19 CFR 201.16(d) and 210.21(a)), such responses will be considered by the Commission if received not later than 20 days after the date of service of the complaint. Responses to the motion for temporary relief may be submitted by the named respondents in accordance with § 210.24(e)(3) of the Commission's rules. Any such responses must be filed within 20 days after service of the motion. Extensions of time for submitting responses to this complaint and/or the motion for temporary relief will not be granted unless good cause therefor is shown.

Failure of a respondent to file a timely response to each allegation in the complaint and in this notice may be deemed to constitute a waiver of the right to appear and contest the allegations of the complaint and this notice, and to authorize the administrative law judge and the Commission, without further notice to the respondent, to find the facts to be as alleged in the complaint and this notice and to enter both an initial determination and a final determination containing such findings.

The complaint and motion for temporary relief except for any confidential information contained therein, are available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 701 E Street NW., Room 156, Washington, DC 20436, telephone 202–523–0471. Hearing-impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal in 202–724–0002.

By order of the Commission.

Kenneth R. Mason,

Secretary.

Issued: July 17, 1987.

[FR Doc. 87–16647 Filed 7–21–87; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 337–TA–110]

Rejection of Motion for Modification or Dissolution of Exclusion Order; Certain Methods for Extruding Plastic Tubing

AGENCY: U.S. International Trade Commission.

ACTION: Rejection of motion for modification or dissolution of the exclusion order issued at the conclusion of the above-captioned investigation.

SUMMARY: Notice is hereby given that the U.S. International Trade Commission has determined to reject the motion filed, pursuant to 19 CFR 211.57, with the Commission on April 17, 1987, on behalf of Meditech International Co. (Meditech), 4105 Holly Street, Unit 1, Denver, Colorado 80216, for modification or dissolution of the general exclusion order issued in September 1982 at the conclusion of the above-captioned investigation.

FOR FURTHER INFORMATION CONTACT: Paul R. Bardos, Esq., Office of General Counsel, U.S. International Trade Commission, 701 E Street NW., Washington, DC 20436, telephone 202–523–0350.

SUPPLEMENTARY INFORMATION: On September 2, 1982, the Commission issued a general exclusion order covering reclosable plastic bags manufactured according to a process which, if practiced in the United States, would infringe the claims of one or more of three U.S. process patents. Two of the patents have since expired, leaving as the basis for the Commission's exclusion order only U.S. Letters Patent Re. 28,959 (the '995 patent).

Meditech's motion argued that the exclusion order should be modified or dissolved because it is allegedly overbroad and because of fraud allegedly committed during the investigation by complainant Minigrip, Inc. (Minigrip). Meditech and Minigrip have been parties to two advisory opinion proceedings requested by Meditech, both of which have been terminated with prejudice. They are also parties to the current Commission Inv. No 337–TA–266, *Certain Reclosable Plastic Bags and Tubing*. The exclusion order issued at the conclusion of Inv. No. 337–TA–110 is scheduled to terminate on December 1, 1987, at the expiration of the '959 patent, the only unexpired patent upon which the exclusion order is based.

In view of the impending termination of the exclusion order, the Commission detemined that insufficient time remains to properly conduct a proceeding on the motion to modify or dissolve the exclusion order under 19 CFR 211.57 and that such a proceeding would not be an effective or efficient use of the Commission's resources. To the extent that the issues raised by the motion are raised in the current Inv. No. 337–TA–266, *Certain Reclosable Plastic Bags and Tubing*, and to the extent that the presiding administrative law judge finds it appropriate, such issues may be considered in Inv. 337–TA–266. The motion for modification or dissolution of

the exclusion order has therefore been rejected.

Copies of all nonconfidential documents filed in connection with this matter are available for inspection during official business hours (8:45 a.m., to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 701 E Street NW., Washington, DC 20436, telephone 202–523–0161. Hearing impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202–724–0002.

By order of the Commission.

Issued: July 16, 1987.

Kenneth R. Mason,

Secretary.

[FR Doc. 87–16646 Filed 7–21–87; 8:45 am]

BILLING CODE 7020–02–M

[Investigation No. 731–TA–349 (Final)]

Certain Welded Carbon Steel Pipes and Tubes From Taiwan

Determination

On the basis of the record [1] developed in the subject investigation, the Commission determines, pursuant to section 735(b) of the Tariff Act of 1930 (19 U.S.C. 1673d(b)), that an industry in the United States is not materially injured or threatened with material injury,[2] and the establishment of an industry in the United States is not materially retarded, by reason of imports from Taiwan of certain welded carbon steel pipes and tubes, provided for in item 610.4928 of the Tariff Schedules of the United States, that have been found by the Department of Commerce to be sold in the United States at less than fair value (LTFV).

Background

The Commission instituted this investigation effective March 17, 1987, following a preliminary determination by the Department of Commerce that imports of certain welded carbon steel pipes and tubes from Taiwan were being sold at LTFV within of the meaning section 731 of the Act (19 U.S.C. 1673). Notice of the institution of the Commission's investigation and of a public hearing to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the **Federal Register** of April 2, 1987 (52 FR 10642). The hearing was held in Washington, DC, on June 10, 1987, and all persons who requested the opportunity were permitted to appear in person or by counsel.

The Commission transmitted its determination in this investigation to the Secretary of Commerce on July 14, 1987. The views of the Commission are contained in USITC Publication 1994 (July 1987), entitled "Certain Welded Carbon Steel Pipes and Tubes from Taiwan: Determination of the Commission in Investigation No. 731–TA–349 (Final) Under the Tariff Act of 1930, Together With the Information Obtained in the Investigation."

By order of the Commission.

Issued: July 14, 1987.

Kenneth R. Mason,

Secretary.

[FR Doc. 87–16645 Filed 7–21–87; 8:45 am]

BILLING CODE 7020–02–M

[1] The record is defined in § 207.2(i) of the Commission's rules of practice and procedure (19 CFR 207.2(i)).

[2] Commissioner Eckes and Commissioner Rohr determine that an industry in the United States is threatened with material injury.

INTERSTATE COMMERCE COMMISSION

[Finance Docket No. 31070]

Railroad Operations; 900 Partners' Investments; Control Exemption; Northbrook Corp., Wisconsin and Southern Railroad Co., and Upper Merion and Plymouth Railroad Co.

900 Partners' Investments (900 Partners), a noncarrier, seeks to control Northbrook Corporation (Northbrook), also a noncarrier, and through Northbrook, the latter's wholly owned subsidiary carriers Wisconsin & Southern Railroad Co., and Upper Merion and Plymouth Railroad Company (collectively, the railroads).

900 Partners holds an option, expected to be exercised shortly, to purchase a controlling stock interest in Northbrook. Upon exercise of that option, 900 Partners will indirectly control the railroads.

These Class III railroads do not connect. They operate in different markets and the distance between them is substantial. The transaction is not a part of a series of anticipated transactions that would lead to a connection between the railroads. The control of these nonconnecting carriers is exempt from the prior review requirements of 49 U.S.C. 11343. *See* 49 CFR 1180.2(d)(2).

Railroad employees affected by the transaction will be protected by the conditions in *New York Dock Ry.—Control—Brooklyn Eastern Dist.*, 360 I.C.C. 60 (1979). This will satisfy the statutory requirements of 49 U.S.C. 10505(g)(2).

Petitions to revoke the exemption under 49 U.S.C. 10505(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

Decided: July 15, 1987.

By the Commission, Jane F. Mackall, Director, Office of Proceedings.

Noreta R. McGee,

Secretary.

[FR Doc. 87–16549 Filed 7–21–87; 8:45 am]

BILLING CODE 7035–01–M

[Finance Docket No. 31071]

Railroad Acquisition; Red River Valley and Western Railroad Co.; Acquisition and Operation Exemption; Certain Lines of Burlington Northern Railroad Co.

Red River Valley & Western Railroad Company (RRVW) has filed a notice of exemption to acquire and operate certain properties of Burlington Northern Railroad Company (BN). The properties consist of approximately 656 miles of rail line extending: from Wahpeton, ND (milepost 0.00), to Wahpeton Junction, ND (milepost 1.40); from Wahpeton Junction, ND (milepost 0.00), to the North Dakota/Minnesota border (milepost 6.04); from Wahpeton Junction, ND (milepost 1.40), to Casselton, ND (milepost 54.55); from Casselton, ND (milepost 0.30), to Marion, ND (milepost 60.30); from Chaffee Line Junction, ND (milepost 0.00), to Chaffee, ND (milepost 12.00); from Horace, ND (milepost 8.50), to Edgeley, ND (milepost 108.44); from Oakes Junction, ND (milepost 76.91), to Oakes, ND (milepost 149.50); from Independence, ND (milepost 0.00, to Oakes, ND (milepost 15.30); from Jamestown, ND (milepost 2.00), to LaMoure, ND (milepost 48.50); from Jamestown, ND (milepost 0.55), to Minnewauken, ND (milepost 89.70); from Oberon, ND (milepost 0.00), to Esmond, ND (milepost 28.10); from Pingree, ND (milepost 0.00), to Regan, ND (milepost 81.25); from Carrington, ND (milepost 0.00), to Turtle Lake, ND (milepost 85.00); and Breckenridge Yard in Breckenridge, MN (milepost 212.32 to milepost 215.20).

RRVW shall also acquire incidental trackage rights upon purchase of the rail line from BN, extending from the property at the North Dakota/Minnesota border at Wahpeton Junction, ND (milepost 6.04), to a point near Brushvale, MN (milepost 8.00). Incidental to the acquistion transaction,

RRVW will also receive trackage rights over the rail line owned by the Soo Line Railroad Company between Lucca, ND, and Sheldon, ND (milepost 27.40 to milepost 42.90). BN shall retain incidental trackage rights on the rail line from that portion extending from Casselton, ND (milepost 54.55), through Wahpeton Junction, ND, to a point east of Breckenridge, MN (milepost 215.20); and from Wahpeton Junction, ND (milepost 0.00), to the North Dakota/Minnesota border (milepost 6.04).

Any comments must be filed with the Commission and served on Deborah A. Phillips, Weiner, McCaffrey, Brodsky & Kaplan, P.C., Suite 800, 1350 New York Avenue, NW., Washington, DC 20005–4797, (202) 628–2000, and Lawrence M. Stroik, Burlington Northern Railroad Company, 3800 Continental Plaza, 777 Main Street, Fort Worth, TX 76102, (817) 878–2370.[1] This transaction will also involve the issuance of securities by RRVW which will be a Class III carrier. The issuance of these securities is exempt under 49 CFR 1175.1.

The notice is filed under 49 CFR 1150.31. If the notice contains false or misleading information, the exemption is void *ad initio*. Petitions to revoke the exemption under 49 U.S.C. 10505(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

Decided: July 13, 1987.

By the Commission, Jane F. Mackall, Director, Office of Proceedings.

Noreta R. McGee,

Secretary.

[FR Doc. 87–16440 Filed 7–21–87; 8:45 am]

BILLING CODE 7035–01–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Revocation of Registration and Denial of Application; Carriage Apothecary, Inc.

On March 10, 1987, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration (DEA) directed an Order to Show Cause to Carriage Apothecary, Inc., of 1515 Spring Garden Street, Philadelphia, Pennsylvania (Respondent). The Order to Show Cause sought to revoke DEA Certificate of Registration AC2404008 previously issued to Respondent and to deny an application for renewal dated September 23, 1986, for reason that the continued registration of Carriage Apothecary, Inc., was inconsistent with the public interest, as that term is used in 21 U.S.C. 823(f).

Respondent, through counsel, submitted a written statement regarding its position on the issues raised in the Order to Show Cause, as it may under 21 CFR 1301.54(c). The Administrator finds that Respondent has waived its opportunity for a hearing by filing this written statement.

The Administrator enters this final order on the record as it appears, including the written statement filed by counsel for Respondent.

The Order to Show Cause recited several instances as showing the inconsistency of Respondent's registration with the public interest. These instances involve the failure of Midtown Pharmacy, Inc., the predecessor entity of Carriage Apothecary, and Leonard Ingber, the proprietor of Midtown Pharmacy, to maintain certain records relating to the dispensing of controlled substances. Specifically, the Administrator finds that between January, 1979 and July, 1980, an inspection and audit of Midtown Pharmacy, Inc., was conducted by Diversion Investigators of the Drug Enforcement Administration. This investigation uncovered Midtown Pharmacy's failure to comply with a number of requirements to which it was subject as a registered pharmacy under 21 U.S.C. 823(f). These violations included failure to maintain a record of the distribution of over 750,000 dosage units of pentazocine (Talwin), a Schedule IV controlled substance, as required by 21 U.S.C. 823(a)(3) and 21 CFR 1304.24; failure to record receipt of shipments of pentacozine, diazepam (Valium), Schedule IV controlled substances, and Bromanyl, a Schedule V controlled substance, in violation of 21 U.S.C. 827(a)(3) and 21 CFR 1304.24; and failure to maintain a record of the distribution of over 6,000 Tuinal 200 mg., a Schedule II controlled substance and over 34,000 Valium, in violation of 21 U.S.C. 827(a)(3) and 21 CFR 1304.24.

Based on these and other violations of the Controlled Substance Act and its regulations, the United States Attorney for the Eastern District of Pennsylvania filed a civil complaint against Midtown Pharmacy, Inc. and Leonard Ingber. In disposition of the complaint, Midtown Pharmacy, Inc. entered into a stipulation for compromise settlement with the United States. Under the terms of the stipulation, Midtown Pharmacy and Leonard Ingber agreed to pay the United States $30,000 in full settlement and satisfaction of any and all claims stemming from the inspection audit of Midtown Pharmacy. The Administrator finds that, as of this date, the United States has not been paid the agreed upon $30,000 civil penalty. Leonard Ingber has filed for bankruptcy and is moving to sell certain properties on Spring Garden Street, apparently to satisfy the penalty.

In his response to the Order to Show Cause, counsel states that Leonard Ingber no longer exercises control over the corporation that owns Carriage Apothecary, Inc. He states that the stock of the corporation and control is under Kenneth Ingber and Denise Stiller, both of whom own 50% of the stock of the corporation. The Administrator notes that the response is not supported by any sworn declarations.

The Administrator also notes that Kenneth Ingber is the son of Leonard Ingber, and Denise Stiller is the daughter of Leonard Ingber. Neither are pharmacists. The Administrator has long held that he can look behind a corporate facade to determine who makes the decisions concerning the controlled substance business of a pharmacy. See *S&S Pharmacy*, 46 FR 13052 (1981); *Unarex of Plymouth Road d.b.a. Motor City Prescriptions*, Docket No. 84–1, 50 FR 6077 (1985), citing *Big T Pharmacy*, Docket No. 80–34, 48 FR 51830 (1982) and *Lawson and Sons Pharmacy*, 48 FR 16140 (1983). Given Leonard Ingber's past history of control over the pharmacy, the Administrator concludes that Leonard Ingber continues to exert influence or control over Carriage Apothecary through the family-held corporation. Leonard Ingber owns neighboring properties that are being sold and his son and daughter, who are not pharmacists, are the corporate owners.

The response to the Order to Show Cause states that the "company is now maintaining property records in compliance with the requirements of the [Controlled Substances] Act" and "since the compromise settlement, strict controls have been enforced and proper records maintained". Again, the Administrator notes the response is not accompanied by any sworn declarations in support of these statements. The Administrator must weigh these statements against the factors in 21 U.S.C. 823(f) in deciding whether

[1] The Railway Labor Executives' Association (RLEA) filed an unsupported request for labor protection claiming that this transaction is subject to the mandatory labor protection provisions of 49 U.S.C. 11347. Since this transaction involves an exeption from 49 U.S.C. 10901, only a showing of exceptional circumstances will justify the imposition of labor protective conditions. RLEA's request is denied because the requisite showing has not been made. *See Class Exemption—Acq. & Oper. of R. Lines Under 49 U.S.C. 10901*, 1 I.C.C. 2d 810 (1985).

Carriage Apothecary should be registered.

In determining whether a registration is consistent with the public interest, the Administrator must consider five factors set out in 21 U.S.C. 823(f). Two of those factors are relevant in determining the suitability of Carriage Apothecary as a DEA registrant: its experience in dispensing controlled substances, and its compliance with applicable State, Federal or local laws relating to controlled substance. The experience of this pharmacy, and its predecessor in dispensing controlled substance is abysmal. An investigation and audit by DEA Diversion Investigators revealed significant shortages of highly abused contolled substances. The law and regulations governing dispensing of controlled substances require exact accountability of these drugs. So profound were the violations that the United States Attorney brought a civil action that led to a settlement requiring a payment of $30,000 by Leonard Ingber and the predecessor of Carriage Apothecary. Clearly, this registrant has not complied with applicable Federal laws relating to controlled substances. The unsupported statements in the response to the Order to Show Cause hardly overcome this evidence of violation of the Act and its regulations.

Finally, the Administrator notes that the response to the Order to Show Cause states that the application is "restricted to the sale of Class 3 and Class 4 controlled substances". Presumably, counsel refers to Schedule III and IV controlled substances. This statement is hardly reassuring. Midtown failed to maintain records for dispensing of over 750,000 dosage units of pentazocine and over 34,000 dosage units of diazapam, Schedule IV controlled substances. Midtown Pharmacy also failed to record receipt of shipments of pentazocine and diazepam. There were also violations involving Schedule II and V controlled substances. The record of this registrant and its predecessor entity in the handling of controlled substances in all schedules, is, at best, disquieting.

Examining the record, including the response to the Order to Show Cause, the Administrator concludes that, given the registrant's continued disregard for the requirements governing the use of its DEA registration, plus the high abuse potential of the drugs which it has mishandled, it is without question that the continued registration of Carriage Apothecary, Inc. is inconsistent with the public interest.

Accordingly, the Administrator of the Drug Enforcement Administration, pursuant to the authority vested in him 21 U.S.C. 823 and 824 and 28 CFR 0.100(b), hereby orders that DEA Certificate of Registration AC2404008, previously issued to Carriage Apothecary, Inc., be, and it hereby is, revoked; and the application for renewal executed on September 23, 1986, be, and it hereby is, denied. This order is effective August 21, 1987.

Dated: July 16, 1987.

John C. Lawn,

Administrator.

[FR Doc. 87-16632 Filed 7-21-87; 8:45 am]

BILLING CODE 4410-09-M

Denial of Application; Steven Rasner, D.M.D.

On March 23, 1987, the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration (DEA) directed an Order to Show Cause to Steven Rasner, D.M.D. (Respondent) of 1055 North Pearl Street, Bridgeton, New Jersey, seeking to deny an application executed by Respondent on September 30, 1986. The statutory basis under 21 U.S.C. 824(a)(2) for the Order to Show Cause was the conviction of Respondent on February 13, 1985, in the United States District Court for the Eastern District of Pennsylvania of unlawful use of a communication facility, in violation of 21 U.S.C. 823(b). This is a felony relating to controlled substances.

Respondent, proceeding *pro se*, waived his opportunity for a hearing and submitted a written statement on the issues raised by the Order to Show Cause. The Administrator finds that Respondent waived his opportunity for a hearing, and enters this final order on the record as it appears. 21 CFR 1301.54(c).

The Administrator finds that Respondent was a very active participant in a cocaine distribution ring with other University of Pennsylvania dental students and graduates. See *Gordon M. Acker, D.M.C.*, Docket No. 86-41, 52 FR 9962 (March 27, 1987). The Federal Bureau of Investigation (FBI), who uncovered the ring, believed that this was the largest cocaine ring ever broken in Philadelphia. At its zenith in 1981, the ring sold 50 kilograms of cocaine in 30 days and netted millions of dollars. The ring used sources of Colombian cocaine in Miami, and had a sophisticated distribution network.

The Administrator finds that Respondent became involved with other principals in the conspiracy in late 1980 or early 1981, when he began to purchase gram quantities of cocaine once or twice a month. The cocaine was ostensibly for use by friends or family members. Respondent bought larger and larger quantities. On January 12, 1984, Respondent placed an order over the telephone for one pound of cocaine from another participant in the ring. This conversation was revealed to the FBI by use of a court-approved telephone communication intercept. Respondent pled guilty to a count involving this conversation.

The Administrator further finds that Respondent paid $240,000 for cocaine between January, 1981, and June, 1982. Records seized pursuant to a search warrant also show that Respondent purchased five pounds of cocaine for $100,000 between September, 1983, and January, 1984. The records for the ring for the period between July, 1982, and August, 1983, were destroyed. Since Respondent was actively involved in the conspiracy during this time, the Administrator concludes that Respondent must have purchased a comparable quantity of cocaine during that period.

The Administrator further finds that Respondent was so actively involved in the illegal distribution of cocaine that he was in contact with his "source" in the organization by telephone beeper and pagers which June Rasner, his wife, who was also intimately involved in the cocaine ring provided the "source". Respondent also traveled to Florida to bring at least one kilogram of cocaine to Philadelphia for illegal distribution. In an interview with FBI Special Agents, Respondent maintained that he purchased the cocaine for his personal consumption or that of friends and relatives, and he did not resell the cocaine for profit. Given Respondent's activity in the conspiracy, and the extremely large quantities involved, the Administrator concludes that Respondent lied to the FBI Special Agents who interviewed him. Respondent ordered cocaine over the telephone at his dental office. Respondent also created a false dental record for one of the conspirators with whom he dealt, in order to explain his relationship with this person. The man had never been a patient of Respondent. The Administrator also finds that Respondent answered "No" to the question, "Have you ever personally used narcotics in any form?" on an application he filed with the New Jersey State Board of Dentistry in June, 1980. Respondent was heavily involved in the conspiracy in June, 1980. The statement also contradicts Respondent's position that the cocaine was for his own personal use.

Turning to Respondent's submission, the Administrator notes that Respondent submitted an unsworn letter and several documents. Respondent maintains that he has taken a course in controlled dangerous substances and received the highest grade in the course since its inception. Respondent states that he played "an integral part" in instituting a drug education course at the University of Pennsylvania Dental School. He also stated that he has submitted to numerous urine tests, all of which proved negative. He also wrote that he addresses impaired dentists in New Jersey and is active on a local level in the "war on drug abuse". He submitted letters from various persons attesting to these achievements. The Administrator finds that Respondent is authorized by the New Jersey State Board of Dentistry to prescribe Schedule III, IV and V controlled substances. There is no restriction on his state authority to prescribe beyond bi-weekly psychotherapy, and Respondent making himself available for random urine monitoring. Respondent was sentenced to eight months in a community treatment center, and a fine of $25,000.

The Administrator has carefully examined the record in this case and concludes that the application submitted by Dr. Rasner must be denied. The Administrator feels constrained to note the extraordinarily lenient treatment accorded Respondent by the State licensing authorities. In light of Respondent's conviction, his extensive participation in this mammoth cocaine conspiracy, the use of his dental office telephone to make cocaine deals and the creation of false records, the Administrator is not at all assured that Respondent can responsibly handle controlled substances.

In cases brought under 21 U.S.C. 824(a)(2), the Administrators of DEA have consistently held that the underlying controlled substance-related felony need not involve the DEA registration to justify revocation or denial of application. See *Gordon M. Acker, D.M.D.*, Docket No. 86–41, 52 FR 9962 (March 27, 1987) (same conspiracy); *Paul Stepak, M.D.*, 51 FR 17556 (1986) (physician distributing LSD); *William H. Carranza, M.D.*, Docket No. 84–23, 51 FR 2771 (1986) (physician smuggling heroin); *Coleman Preston McCown, D.D.S.*, Docket No. 82–18, 49 FR 45818 (1984) (dentist selling street cocaine to undercover Agent); *Aaron Moss, D.D.S.*, Docket No. 80–2, 45 FR 72850 (1980) (dentist smuggling cocaine). Health care professionals such as Dr. Rasner know better than anyone the immense harm cocaine causes. There is no excuse for his actions.

Having examined the record, the Administrator concludes that the application should be denied, for reason that Respondent was convicted of a felony relating to controlled substances. Accordingly, the Administrator of the Drug Enforcement Administration, pursuant to the authority vested in him by 21 U.S.C. 823 and 824 and 28 CFR 0.100(b), hereby orders that the application executed by Steven Rasner, D.M.D., on September 30, 1986, and any other applications filed by Respondent, be, and they hereby are, denied. This order is effective August 21, 1987.

John C. Lawn,

Administrator.

Dated: July 16, 1987.

[FR Doc. 87–16633 Filed 7–21–87; 8:45 am]

BILLING CODE 4410–09–M

Revocation of Registration; Jean A. Yankosky, M.D.

On March 18, 1987, the Administrator of the Drug Enforcement Administration (DEA) directed an Order to Show Cause and Immediate Suspension of Registration to Jean A. Yankosky, M.D., 109 Pike Street, Port Carbon, Pennsylvania. Dr. Yankosky had previously been issued DEA Certificate of Registration AY1285154. The statutory predicate under 21 U.S.C. 824(f) for the Order to Show Cause was the inconsistency of the registration of Dr. Yankosky with the public interest. The Administrator preliminarily found under 21 U.S.C. 824(d) that the continued registration of Dr. Yankosky posed an imminent danger to the public health and safety, and so immediately suspended the registration previously issued to her. More than thirty days have elapsed since the issuance of the Order to Show Cause. No response has been received from Dr. Yankosky or anyone representing her. Accordingly, pursuant to 21 CFR 1301.54 and 1301.57, the Administrator enters this final order on the record as it appears.

The Administrator finds that Dr. Yankosky ordered 100 grams of meperidine (Demerol) a Schedule II narcotic, from distributors in the first three quarters of 1986. This was the third largest quantity of meperidine ordered by medical practitioners in Pennsylvania during that period of time. Dr. Yankosky was unable to account for the large quantities of meperidine and other controlled substances she purchased in 1986 and 1987. She told DEA Diversion Investigators on January 27, 1987, that she did not maintain an inventory of controlled substances at her registered location. The failure to maintain an inventory is a violation of 21 U.S.C. 827 and 21 CFR 1304.03(b), 1304.04, and 1304.17.

The Administrator further finds that while Dr. Yankosky prescribed full strength Demerol for certain of her patients, these patients told DEA Diversion Investigators that she did not administer the drug to them in full-strength. This left a quantity of the drug available to Dr. Yankosky. Dr. Yankosky or her office manager were observed driving to local pharmacies to pick up Demerol, supposedly for patients. Patients told Investigators that Dr. Yankosky also suggested they take meperidine prescriptions to various pharmacies in the area to be filled. The Administrator concludes that these procedures were designed to provide Dr. Yankosky with drugs for her own use.

The Administrator further finds that Dr. Yankosky's past experience in the handling of controlled substances supports a conclusion that her registration should be revoked. In 1980, Dr. Yankosky entered into a consent agreement with the Pennsylvania State Board of Medical Education and Licensure in which she admitted that she unlawfully obtained narcotic controlled substances and administered them to herself to sustain her personal drug dependence. The Board suspended Dr. Yankosky's medical license indefinitely in January, 1981, but reinstated it in August, 1981, upon condition that she continue in counselling for one year, that Schedule II narcotics not be available in her office and that she not prescribe Schedule II narcotics in her office practice for a period of three months.

The Administrator further finds that Dr. Yankosky continued to order meperidine after the immediate suspension of the registration on March 18, 1987. On April 6, 1987, Special Agents of the Pennsylvania Bureau of Narcotics arrested Dr. Yankosky after she ordered meperidine from a drug distributor and it was delivered to her office. The Administrator will not comment further on the ongoing criminal prosecution arising from that incident.

In light of Dr. Yankosky's excessive ordering of meperidine, her inability to account for the drug, her past history of narcotics abuse, and her ordering of meperidine after the suspension of her registration, the Administrator concludes that this registration must be revoked. It is clear that Dr. Yankosky is incapable of responsibly discharging the obligations imposed on her as a

registrant. Dr. Yankosky cannot be trusted with a DEA registration.

Accordingly, the Administrator hereby orders that DEA Certificate of Registration AY1285154, previously issued to Jean A. Yankosky, M.D., be, and it is, revoked, effective August 21, 1987. The immediate suspension shall remain in effect until the effective date of the revocation.

Dated: July 16, 1987.

John C. Lawn,

Administrator.

[FR Doc. 87-16634 Filed 7-21-87; 8:45 am]

BILLING CODE 4410-09-M

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

National Endowment on the Arts; Literature Advisory Panel to the National Council on the Arts; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), as amended, notice is hereby given that a meeting of the Literature Advisory Panel (Advancement/Challenge III) to the National Council on the Arts will be held on August 7, 1987, from 9:00 a.m.-5:30 p.m. in room 415 of the Nancy Hanks Center, 1100 Pennsylvania Avenue, NW., Washington, DC 20506.

This meeting is for the purpose of Panel review, discussion, evaluation, and recommendation on applications for financial assistance under the National Foundation on the Arts and the Humanities Act of 1965, as amended, including discussion of information given in confidence to the Agency by grant applicants. In accordance with the determination of the Chairman published in the **Federal Register** of February 13, 1980, these sessions will be closed to the public pursuant to subsections (c) (4), (6) and (9)(B) of section 552b of Title 5, United States Code.

Further information with reference to this meeting can be obtained from Ms. Yvonne M. Sabine, Advisory Committee Management Officer, National Endowment for the Arts, Washington, DC 20506, or call (202) 682-5433.

Yvonne M. Sabine,

Acting Director, Council and Panel Operations, National Endowment for the Arts.

July 16, 1987.

[FR Doc. 87-16672 Filed 7-21-87; 8:45 am]

BILLING CODE 7537-01-M

OFFICE OF PERSONNEL MANAGEMENT

Request for Extension of SF 15 Submitted to OMB for Clearance

AGENCY: Office of Personnel Management.

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1980 (Title 44 U.S. Code Chapter 35), this notice announces a proposed unchanged extension to a form which collects information from the public. Standard Form 15, Application for 10-point Veterans Preference, is completed by individuals applying for Federal jobs and who wish to apply for additional 10-points of examination credit based on his/her military service or that of a spouse or child. OPM examining offices and agency appointing officials use the information provided to adjudicate the individual's claim in accordance with the Veteran's Preference Act of 1944, as amended. Approximately 23,700 respondents annually expend 3950 burden hours to complete SF 15. For copies of this proposal, call William C. Duffy, Agency Clearance Officer, on (202) 632-7714.

DATES: Comments on this proposal should be received within 10 working days from the date of this publication.

ADDRESSES: Send or deliver comments to:

William C. Duffy, Agency Clearance Officer, U.S. Office of Personnel Management, 1900 E Street NW., Room 6410, Washington, DC 20415

and

Richard Eisinger, Information Desk Officer, Office of Information and Regulatory Affairs, Office of Management and Budget, Room 3002, New Executive Office Building, NW., Washington, DC 20503

FOR FURTHER INFORMATION CONTACT: Laurence T. Lorenz, (202) 653-8076.

U.S. Office of Personnel Management

James E. Colvard,

Deputy Director.

Supporting Statement for SF 15—OMB SF 83A

A. Justification

1. 5 U.S.C. 2108 and FPM Chapter 211 identify those persons who are eligible for 10-point veteran preference in Federal employment and requires that preference be awarded, accordingly. Consequently, an eligible 10-point veteran must be informed of his/her rights and provided with a procedure for securing these rights. SF 15 is the vehicle developed by OPM for accomplishing both these tasks. The SF 15 eliminates the need for collection on SF 171, thereby, minimizing overall public reporting burden.

2. The information is used by OPM examining offices and agency appointing officials to determine if the applicant for a Federal job is eligible for the type of 10-point veteran preference he/she is claiming. Without it, officials would have no idea what to adjudicate for, since there are seven different types of cliams that can be made and required documentation varies, accordingly. The submission of documents alone without the SF 15 would not satisfy this need.

SF 15 is used to permanently document the veteran's claim in the Official Personnel Folder upon appointment. This is especially important in RIF actions where veteran's preference comes into play with regard to retention and in certain types of appointment actions, such as Veterans Readjustment Appointments.

3. Complex and specific requirements of law and need for applicant to provide VA Claim Number and documentation as they are the best and most efficient source, rule out use of improved information technology.

4&5. The only information available elsewhere are items 1-5 which are found on the SF 171. These items must be repeated, because in many cases the applicant applies for a job by forwarding only the SF 171. When this occurs and the individual marks on the SF 171 that he/she is eligible for 10-point preference, we must go back to the applicant for the SF 15 and documentation. We must have a means of identifying the material submitted with the examining office holding the application and with the appropriate SF 171. Items 1-5 aid in this identification process.

In many cases the documentation submitted is inadequate to adjudicate the claim. We must then go back to the Veterans Administration or appropriate branch of the Armed Forces. Items 6-9 are required by these organizations to identify the individual concerned.

We strongly feel that items 12-14 are necessary because they are self-eliminating questions. In other words, the applicant will not go to the trouble of obtaining documentation and completing SF 15 if these questions are not answered correctly.

On the reverse side, items H1-7 are used by OPM to determine whether the veteran is totally disabled along the lines of his/her usual occupation in order to adjudicate entitlement to spouse and mother preference. In

determining "usual occupation," it is important what the veteran has considered this to be over recent years.

6. Not applicable. Collection from individuals only.

7. Collection usually one time only. However, if applicants apply for jobs in widely divergent locations (e.g., Washington, DC, Chicago and Seattle), they usually submit photocopies.

8. Collection is consistent with 5 CFR 1320.6.

9. Consultation was accomplished during last revision. We have had no problems reported by applicants or any other party during the past 3 years.

10. Privacy Act Statement printed on form identifies limitation of disclosure.

11. Question under 12, 13, and 14 concerning marital status are of a personal nature, however, the law clearly defines the marital status of spouses, widow/widowers and mothers of veterans required for eligibility. Therefore, if application made for spouse, widow/widower or mother preference the adjudicator must know applicants marital status.

12. Estimate of Annualized Cost.

No statistics are kept on the number of SF 15's received by agencies and OPM. The Central Personnel Data File (CPDF) captures only the number of 10-point veterans hired, not the number who applied. However, the general rule for determining form usage is that for every 10 forms sold by GSA (printed) only one is actually completed and submitted. Based on GSA's sales in 1986 of 237,000 forms sold, we estimate that 23,700 forms were completed. This reduction of 14,300 over the last 4 years is consistent with the expected reduction in the number of 10-point applicants as time passes without a major engagement (e.g., Vietnam).

Cost of forms—2370 HD (100) sold in 1986

×$.64 per HD

$1,516.80

Adjudication of forms. (Based on 15 minutes per form at $11.84 per hour which is the hourly wage of the average personnel staffing specialist) assistance at grade 9, step 4.)

23,700 forms
×$2.96

$70,152 Direct labor

Overhead—$70,152
×25% Overhead rate

$17,538

Total estimated cost = $1,516.80
70,152.00
17,538.00

$89,206.80

13. See SF–83 items 17, 18 and 19.

14. Number of applicants claiming 10-point veteran preference gradually declining as time passes without a major military engagements such as in Vietnam and Korea.

15. Not Applicable. Information not published.

B. Information is *not* collected for statistical purposes and *not* analyzed by statistical methods.

[FR Doc. 87–16650 Filed 7–21–87; 8:45 am]
BILLING CODE 6325–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–24709; File No. SR–Amex–87–11]

Self-Regulatory Organizations; American Stock Exchange, Inc., Relating to Disciplinary Fines

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on June 9, 1987, the American Stock Exchange, Inc. filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The American Stock Exchange, Inc. is proposing to remove the maximum limits on fines that may be imposed in formal Exchange disciplinary proceedings and increase the fines that may be imposed under the Exchange's minor rule infraction fine system. The text of the proposed rule change is available at the Office of the Secretary, American Stock Exchange, Inc. and at the Commission.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-reghulatory organization has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

(1) Purpose

The Exchange is proposing to remove the maximum limits on fines that may be imposed in formal disciplinary proceedings. Exchange rules currently impose a ceiling of $25,000 on fines against an individual member and $100,000 on fines against a member firm. The miximum fine against an employee of a member of member firm is $5,000 per offense, with a limit of $25,000 in the aggregate.

The elimination of fine ceilings will enable the Exchange to deal effectively with serious rule violations where monetary penalties are appropriate, as well as increase the deterrent potential of fines. It will also afford the Exchange greater leeway in negotiating settlements in cases where a higher fine may be an acceptable alternative to a suspension. In addition, eliminating limits on fines will allow Exchange Disciplinary Panels to more effectively compel disgorgement of illicit profits in customer abuse cases, insider trading matters, and other instances of serious rule violations.

The Exchange is also proposing to increase the fines that may be imposed under its minor rule violation procedure. Minor rule violations include (1) any act or omission tending to disrupt the orderly conduct of business on the floor or which causes serious interference with the personal comfort or safety of other persons on the floor, and (2) failure to comply with certain on-floor or off-floor operational procedures established by the Exchange.

Under the Exchange's current procedure, Floor Governors and Exchange Officials are authorized to charge members and member organizations with floor decorum and operational violations and to assess fines ranging from $50 for a first offense to $500 for a sixth offense. The member or member organization may plead guilty and pay the fine or contest the charge in a hearing before an Exchange Disciplinary Committee.

An increase in the level of fines would enable the Exchange to deal more effectively with these minor rule violations. It is proposed that a fine of $100 be imposed for a first offense, $300 for a second offense, and $500 for a third offense within a six-month period. The $500 maximum fine could be imposed for a first offense if warranted under the circumstances in the view of the Floor Governor or Exchange Official. The Floor Governor or Exchange Official would also have the authority to impose a lesser fine of $50 for a first offense, again if circumstances warranted.

Finally, the minor rule violation procedure would be amended to clarify that the Exchange in the case of any violation reserves the right to bring formal or summary charges against member or member organization, instead of utilizing the minor rule violation procedure. The minor rule violation procedure, as amended, is set forth in Exhibit B.

(2) Basis

The proposed rule change is consistent with section 6(b) of the Act in general and furthers the objective of section 6(b)(6) in particular in that it is intended to assure that Exchange members and member firms are appropriately disciplined for rule violations.

B. Self-Regulatory Organization's Statement on Burden on Competition

The proposed rule change will have no impact on competition. The NYSE has, like the Amex, recently submitted to the Commission a proposed rule change to eliminate its current ceiling on fines. *See* Securities Exchange Act Release No. 24435 (May 7, 1987) 52 FR 18301.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted by August 12, 1987.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Dated: July 16, 1987.

Jonathan G. Katz,

Secretary.

[FR Doc. 87-16599 Filed 7-21-87; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-24708; File Nos. SR-Amex-87-9, Amdt. No. 1; SR-CBOE-87-29; SR-Phlx-87-22; and SR-PSE-87-21]

Self-Regulatory Organizations; American, Pacific and Philadelphia Stock Exchanges and the Chicago Board Options Exchange; Filings and Order Granting Accelerated Approval of Proposed Rule Changes

On June 30, July 1, 7, and 13, 1987, the American Stock Exchange ("Amex"), the Chicago Board Options Exchange ("CBOE"), and the Philadelphia ("Phlx") and Pacific ("PSE") Stock Exchanges (collectively, the "Exchanges") submitted, respectively, to the Security and Exchange Commission ("Commission"), pursuant to section 19(b)(1) under the Securities Exchange Act of 1934 ("Act")[1] and Rule 19b-4 thereunder,[2] proposed rule changes to extend the index option escrow receipt pilot through December 31, 1987.

In August 1985, the Amex, CBOE, PSE, Phlx and the New York Stock Exchange ("NYSE") adopted a one-year pilot program to permit the use of cash, cash equivalents, one or more qualified securities, or a combination of the foregoing, as collateral for escrow receipts issued to cover short call positions in broad-based stock index options.[3] Pursuant to its agreement with the Commission, the CBOE, on behalf of the other options exchanges and the Options Clearing Corporation, agreed to monitor the use of index option escrow receipts during the pilot program. The program was subsequently extended for an additional six month period to permit the CBOE to complete its study.

On February 6, 1987 the CBOE submitted its report on the pilot program to the Commisson for its review and assessment. In order for the Commission to review thoroughly this report, the Exchange propose that the pilot be extended on a pilot basis through December 31, 1987. The Exchanges also have requested, by way of separate rule filings, that the use of index option escrow receipts be approved on a permanent basis at the conclusion of the Commission's consideration of the pilot report.[4]

The Commission has concluded that the proposed rule changes to extend the operation of the index option escrow receipt pilot program through December 31, 1987 are consistent with the requirements of the Act and the rules and regulations thereunder applicable to the Exchanges, and, in particular, the requirements of section 6,[5] and the rules and regulations thereunder. The Commission is approving the extension because it will enable continuation of a program designed to reduce operational difficulties of banks and trust companies while the Commission evaluates the program's effectiveness. The Commission finds good cause for approving the proposed rule changes prior to the thirtieth day after the date of publication thereof, in that the pilot was previously approved by the Commisson

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[1] 15 U.S.C. 78s(b)(1) (1982).

[2] 17 CFR 240.19b-4 (1985).

[3] *See* Securities Exchange Act Release NO. 22323, 50 FR 33439 (August 19, 1985) for a description of the pilot. The NYSE has not yet filed for an extension of its pilot program beyond June 30, 1987.

[4] *See* File Nos. Amex-87-9, CBOE-87-3, Phlx-87-5 and PSE-87-11, noticed, respectively, in Securities Exchange Act Release Nos. 24121 (February 20, 1987; 24253 (March 24, 1987), 24383 (April 23, 1987) and 24450 (May 14, 1987).

[5] 15 U.S.C. 78f (1982).

and no adverse comments have been received regarding its operation.

Interested persons are invited to submit written data, views and arguments concerning the forgoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule changes that are filed with the Commission, and all written communications relating to the proposed rule changes between the Commisson and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC 20549. Copies of each exchange's filing also will be available for inspection and copying at the principal office of the respective exchange. All submissions should refer to the file numbers in the caption above and should be submitted within 21 days after the date of this publication.

It is therefore ordered, pursuant to section 19(b)(2) of the Act,[6] that the proposal to extend the operation of the pilot through December 31, 1987 is approved.

For the Commission, by the Division of Market Regulations, pursuant to delegated authority.[7]

Dated: July 15, 1987.

Johnathan G. Katz,

Secretary.

[FR Doc. 87-16600 Filed 7-21-87; 8:45 am]

BILLING CODE 8010-01-M

[File Nos. 7-0256, et al.]

Self/Regulatory Organizations; Applications for Unlisted Trading Privileges and of Opportunity for Hearing; Midwest Stock Exchange, Inc.

July 16, 1987.

The above named national securities exchange has filed applications with the Securities and Exchange Commission pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the following securities:

Clemente Global Growth Funds, Inc.
Common Stock, $.01 Par Value (File No. 7-0256)
FMC Gold Co.
Common Stock, $.01 Par Value (File No. 7-0257)
Fine Homes International, L.P.
Depositary Receipts (File No. 7-0258)
Meditrust
Shares of Beneficial Interest, No Par Value (File No. 7-0259)
Sahara Casino Partners L.P.
Depositary Units Representing L.P. Interest (File No. 7-0260)
Tux Cos
Common Stock, $.01 Par Value (File No. 7-0261)
Viacom Inc.
Common Stock, $.01 Par Value (File No. 7-0262)
Worldcorp, UBC
Common Stock, $.01 Par Value (File No. 7-0263)
Brock Hotel
Rights (File No. 7-0264)

These securities are listed and registered on one or more other national securities exchange and are reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before August 6, 1987 written data, views and arguments concerning the above/referenced applications. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, Washington, DC 20549. Following this opportunity for hearing, the Commission will approve the applications if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such applications are consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 87-16601 Filed 7-21-87; 8:45 am]

BILLING CODE 8010-01-M

[File Nos. 7-0265, et al

Self-Regulatory Organizations; Applications for Unlisted Trading Privileges and of Opportunity for Hearing; Midwest Stock Exchange, Inc.

July 16, 1987.

The above named national securities exchange has filed applications with the Securities and Exchange Commission pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder, for unlisted trading privileges in the following securities:

Coastamerica Corp.
Common Stock, $.01 Par Value (File No. 7-0265)
E-II Holdings, Inc.
Common Stock, $.01 Par Value (File No. 7-0266)
Formica Corp.
Common Stock, $.01 Par Value (File No. 7-0267)
Hills Department Stores, Inc.
Common Stock, $.01 Par Value (File No. 7-0268)
Lewis Galoob Toys, Inc.
Common Stock, No Par Value (File No. 7-0269)
MBIA, Inc.
Common Stock, No Par Value (File No. 7-0270)
Oxford First Corp.
Common Stock, $1.00 Par Value (File No. 7-0271)
Speicalty Equipment Co's.
Common Stock, $.01 Par Value (File No. 7-0272)
Unionfed Financial Corp.
Common Stock, $.01 Par Value (File No. 7-0273)
Cyclops Industries, Inc.
Common Stock, $1.00 Par Value (File No. 7-0274)
Newell Co.
Common Stock, $1.00 Par Value (File No. 7-0275)
Newell Co.
Common Stock, $2.08 Convertible Preferred Stock, $1.00 Par Value (File No. 7-0276)
Wells Fargo & Company (Delaware)
Common Stock, $5.00 Par Value (File No. 7-0277)
Abitibi-Price Inc.
Common Stock, No Par Value (File No. 7-0278)
GW Utilities Limited
Common Stock, No Par Value (File No. 7-0279)
Gulf Canada Resources Limited
Oridinary Shares, No Par Value (File No. 7-0280)
Gulf Canada Resources Limited
Preference Shares, No Par Value (File No. 7-0281)

These securities are listed and registered on one or more other national securities exchange and are reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before August 6, 1987 written data, views and arguments concerning the above-referenced applications. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, Washington, DC 20549. Following this opportunity for hearing, the Commission will approve the applications if it finds, based upon all the information available

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[6] 15 U.S.C. 78s(b)(2) (1982).

[7] 17 CFR 200.30-3(a)(12) (1985).

to it, that the extensions of unlisted trading privileges pursuant to such applications are consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 87-16602 Filed 7-21-87; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 35-24425]

Filings Under the Public Utility Holding Company Act of 1935 ("Act"); Western Massachusetts Electric Co.

July 16, 1987.

Notice is hereby given that the following filing(s) has/have been made with the Commission pursuant to provisions of the Act and rules promulgated thereunder. All interested persons are referred to the application(s) and/or declaration(s) for complete statements of the proposed transaction(s) summarized below. The application(s) and/or declaration(s) and any amendment(s) thereto is/are available for public inspection through the Commission's Office of Public Reference.

Interested persons wishing to comment or request a hearing on the application(s) and/or declaration(s) should submit their views in writing by August 10, 1987 to the Secretary, Securities and Exchange Commission, Washington, DC 20549, and serve a copy on the relevant applicant(s) and/or declarant(s) at the addresses specified below. Proof of service (by affidavit or, in case of an attorney at law, by certificate) should be filed with the request. Any request for hearing shall identify specifically the issues of fact or law that are disputed. A person who so requests will be notified of any hearing, if ordered, and will receive a copy of any notice or order issued in the matter. After said date, the application(s) and/or declaration(s), as filed or as amended, may be granted and/or permitted to become effective.

Western Massachusetts Electric Company (70-7417)

Western Massachusetts Electric Company ("WMECO"), 174 Brush Hill Avenue, Springfield, Massachusetts 01090 a wholly owned electric utility subsidiary of Northeast Utilities, a registered holding company, has filed an application-declaration pursuant to sections 6(b), 9(a), 10, and 12(c) of the Act and Rules 42, 46, and 50 thereunder.

WEMCO seeks to issue and sell up to 2,400,000 shares of a new series of Class A preferred stock, $25 par value per share, on or before December 31, 1987, with an aggregate par value of $60,000,000. Each series will consist of one or more units of 4,000 shares. Each unit will sell publicly for $100,000.

The preferred stock, referred to as "market auction preferred stock", or "money market preferred stock" would have a dividend rate established for short, successive periods, normally 49 days, through a bidding process among holders and prospective purchasers. Dividends would be generally payable on the last day of each dividend period. The preferred stock would be redeemable as a whole or in part on, any dividend payment date at specified redemption prices negotiated with the underwriter and would not exceed 103% of the initial public offering price per unit. WMECO seeks an exception from the competitive bidding requirements of Rule 50 to offer the preferred stock on a negotiated basis.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 87-16598 Filed 7-21-87; 8:45 am]

BILLING CODE 8010-01-M

DEPARTMENT OF STATE

[Public Notice 1016]

Finding of No Significant Impact; City of El Paso, TX

The Department of State, Bureau of Oceans and International Environmental and Scientific Affairs has received an environmental assessment from the City of El Paso, Texas, concerning the proposal to construct a new bridge at Zaragosa in the Ysleta area of El Paso, connecting with Ciudad Juarez, Mexico. The assessment was submitted to the Department in conjunction with an application by El Paso for a Presidential permit to undertake the international bridge project. The original 1980 assessment was supplemented by an addendum submitted in late 1986, which contains updated information on a variety of issues. The current Zaragosa Bridge is 45 years old and has only two lanes, one in each direction. Traffic congestion is a major problem, and expected to get worse in the future. The planned expansion would result in an eight-lane bridge, with appropriate access ramps and expanded Customs facilities. The assessment reviews several alternatives (i.e., no action, expanding inspection facilities at a different bridge, and mass transit) and concludes that they are either not feasible or would be less beneficial environmentally and economically than the proposed project.

After review of the assessment, including the addendum, the Department has concluded that no significant adverse environmental impacts will result from construction of the proposed bridge at Zaragos. On the contrary, the project should be environmentally beneficial since it should facilitate transit, thus lessening pollution from idling vehicles.

The environmental assessment is available for review at the Office of Ecology and Natural Resources, Room 4325, Bureau of Oceans and International Environmental and Scientific Affairs, Department of State, Washington, DC 20520 (202/647-4824).

Date: July 1, 1987.

Edmund M. Parsons,

Director, Office of Environmental and Natural Resources.

[FR Doc. 87-16624 Filed 7-21-87; 8:45 am]

BILLING CODE 4710-09-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

[Summary Notice No. PE-87-16]

Petition for Exemption; Summary of Petitions Received and Dispositions of Petitions Issued; Eastern Air Lines Inc., et al.

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petitions for exemption received and of dispositions of prior petitions.

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for exemption (14 CFR Part 11), this notice contains a summary of certain petitions seeking relief from specified requirements of the Federal Aviation Regulations (14 CFR Chapter I), dispositions of certain petitions previously received, and corrections. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of any petition or its final disposition.

DATE: Comments on petitions received must identify the petition docket number

involved and must be received on or before: August 11, 1987.

ADDRESS: Send comments on any petition in triplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rules Docket (AGC-204), Petition Docket No. _____, 800 Independence Avenue, SW., Washington, DC 20591.

FOR FURTHER INFORMATION: The petition, any comments received, and a copy of any final disposition are filed in the assigned regulatory docket and are available for examination in the Rules Docket (AGC-204), Room 915G, FAA Headquarters Building (FOB 10A), 800 Independence Avenue SW., Washington, DC 20591; telephone (202) 267-3132.

This notice is published pursuant to paragraphs (c), (e), and (g) of § 11.27 of Part 11 of the Federal Aviation Regulations (14 CFR Part 11).

Issued in Washington, DC, on July 16, 1987.

Leonard R. Smith,

Manager, Program Manager Staff.

PETITIONS FOR EXEMPTION

Docket No.	Petitioner	Regulations affected	Description of relief sought
12638	Air Transport Association of America	14 CFR 121.99 and 121.351(a)	To allow certain petitioner members to operate turbojet aircraft on certain oceanic routes between the northeastern U.S. and the San Juan Air Route Traffic Control Center boundary, with one of two installed HF communications systems inoperative at the time of departure.
5192	Eastern Air Lines, Inc.	14 CFR 121.665, 121.697(a), (b), (c), and (d)	To allow petitioner to substitute a computer application signature for the signed load manifest.
25137	Meadowlark Soaring School	14 CFR 91.42(a)(1) and (2)	To allow petitioner to operate a JANUS CM two-place, self-launching sailplane that has an FAA experimental airworthiness certificate for the purpose of flight instruction. *Denied, July 7, 1987.*
25234	Douglas County Aviation Inc.	§ 125.1(a)(2)	TRW Inc., and Ohio corporation, has requested Douglas County Aviation, Inc to transport oversized equipment from Honolulu, Hawaii, to Christmas Island, Republic of Kiribati. TRW Inc., has withdrawn their April 7, 1987, petition for exemption. Withdrawn on 4/7/87.
030CE	Mooney Aircraft Corp.	§ 23.991(a)(1)	Mooney Aircraft Corporation requests an exemption requirements of § 23.991(a)(1) of the Federal Aviation Regulations (FAR) to permit certification of a Model M20L airplane using the Porsche PFM3200No3 engine, which will not comply with § 23.991(a)(1). The Mooney Model M20L is a small, single reciprocating engine, four-place airplane. *Granted June 9, 1987.*
010NM	Boeing Commercial Airplane Co.	§ 25.783(g), § 25.8007(c)(1), § 25.809(f), and § 25.813(b).	Boeing Commercial Airplane Company requests an exemption so that it permit type certification of the Boeing Model 757-200PF (package freighter) for carriage of up to five persons in addition to two flight crewmembers in the flight deck compartment of the airplane. *Granted: June 9, 1987.*
20549	Boeing Commercial Airplane Co	Parts 21 and 25	Boeing Commercial Airplane Company requests exemption by permitting the type certification of airplanes with the location of the flap position indicator in the lower left-hand corner of the pilot's center instrument panel, and with the servo altimeter configured with dial markings at 50-foot increments rather than 20-foot increments. *Granted: June 2, 1987.*
25220	Eagle International Ministries	§ 91.303	The petitioner requests an exemption from the January 1, 1985 noise level compliance. Denied: May 29, 1987.
23609	State of Florida	§ 91.109(a)	The petitioner requests an exemption that would permit the operation of multi-engine aircraft for aerial mapping, aerial photography, survey and thermal scan operations at altitudes contrary to those prescribed for certain directions of flight. *Granted: May 1, 1987.*
013NM	British Aerospace	§ 25.571(a)(2)	British Aerospace request an exemption to permit type certification of the Model 748 ATP without showing that the airplane is capable of successfully completing a flight during which likely structural damage occurs as a result of blade impact. *Granted: June 11, 1987.*

[FR Doc. 87-16580 Filed 7-21-87; 8:45 am]

BILLING CODE 4910-13-M

Urban Mass Transportation Administration

[Docket No. 87-A]

Public Interest Waiver; Buy America Requirements

AGENCY: Urban Mass Transportation Administration, DOT.

ACTION: Notice—request for comments.

SUMMARY: In the **Federal Register** of June 24, 1987 (52 FR 23735), the Urban Mass Transportation Administration (UMTA) published a Notice requesting comments on whether a "public interest" waiver under the authority of section 165(b)(1) of the Surface Transportation Assistance Act of 1982 should be granted for the procurement of bus tires produced in Canada in order to allow increased competition in the bus tire supply industry. The Notice indicated that comments must be received by UMTA on or before July 27, 1987. UMTA has received a request from Goodyear Tire and Rubber Company that the comment period be extended until August 12, 1987. UMTA considers this to be a reasonable request in order that all interested parties have sufficient time to submit comments. Therefore, the purpose of this Notice is to extend the comment period for UMTA Docket 87-A until August 12, 1987.

DATE: Comments must be received on or before August 12, 1987.

ADDRESS: Comments should be submitted to UMTA Docket No. 87-A, Urban Mass Transportation Administration, Room 9316, 400 Seventh Street, SW., Washington, DC 20590. All comments received will be available for examination at the above address between 8:30 a.m. and 5:00 p.m., Monday-Friday.

FOR FURTHER INFORMATION CONTACT: Edward J. Gill, Jr., Deputy Chief Counsel, Room 9316, 400 Seventh Street, SW., Washington, DC 20590. (202) 366-4063.

Dated: July 17, 1987.

Joseph A. LaSala, Jr.,

Chief Counsel.

[FR Doc. 87-16664 Filed 7-21-87; 8:45 am]

BILLING CODE 4910-57-M

DEPARTMENT OF THE TREASURY

Public Information Collection Requirements Submitted to OMB for Review

Date: July 16, 1987.

The Department of Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under

the Paperwork Reduction Act of 1980, Pub. L. 96–511. Copies of the submissions(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the Treasury, Room 2224, 15th and Pennsylvania Avenue NW., Washington, DC 20220.

Internal Revenue Service

OMB Number: New
Form Number: 8633–OCR
Type of Review: New Collection
Title: Application to Participate in 1988 From 1040-OCR Project for Individual Income Tax Returns
Description: Form 8633-OCR will be filled-in by tax preparers and software publishers and submitted to IRS as an application for filing and/or producing software for the Form 1040-OCR pilot.
Respondents: Businesses or other for-profit
Estimated Burden: 42 hours
Clearance Officer: Garrick Shear, (202) 566–6150 Internal Revenue Service, Room 5571, 1111 Constitution Avenue NW., Washington, DC 20224
OMB Reviewer: Milo Sunderhauf, (202) 395–6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, DC 20305

U.S. Customs Service

OMB Number: 1515–0015
Form Number: 7511
Type of Review: Extension
Title: Notice of Exportation of Articles with Benefit of Drawback
Description: The document is used by commerical exporters and manufacturers upon the export of shipments of merchandise on which drawback is to be claimed.
Respondents: Businesses or other for-profit
Estimated Burden: 33,000 hours

OMB Number: 1515–0124
Form Number: None
Type of Review: Reinstatement
Title: Disclosure of Information on Inward and Outward Vessel Manifest
Description: The information is used to grant a domestic importer's, consignee's and exporter's request for confidentiality of its identity from public disclosure.
Respondents: Businesses or other for-profit, Small businesses or organizations
Estimated Burden: 100 hours

OMB Number: 1515–0137
Form Number: None
Type of Review: Extension
Title: Declaration of Person Who Performed Repairs
Description: The declaration is needed to insure duty-free status for entries covering articles repaired abroad.
Respondents: Businesses or other for-profit
Estimated Burden: 410 hours
Clearance Officer: B.J. Simpson, (202) 566–7529, U.S. Customs Service, Room 6426, 1301 Constitution Avenue NW., Washington, DC 20229
OMB Reviewer: Milo Sunderhauf, (202) 395–6880, Office of Management and Budget, Room 3208, New Executive Office Building, Washington, DC 20503.

Dale A. Morgan,
Departmental Reports Management Officer.
[FR Doc. 87–16594 Filed 7–21–87; 8:45 am]
BILLING CODE 4810-25-M

Sunshine Act Meetings

Federal Register
Vol. 52, No. 140
Wednesday, July 22, 1987

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT Vol 52 No. 26202 Dated Monday, July 13, 1987.

PREVIOUSLY ANNOUNCEMENT TIME AND DATE OF MEETING: 2:00 PM (Eastern Time) Monday, July 20, 1987.

CHANGE IN THE MEETING: The open portion of the meeting of the Equal Employment Opportunity Commission meeting has been postponed and is expected to be rescheduled for July 30, 1987.

CONTACT PERSON FOR MORE INFORMATION: Cynthia C. Matthews, Executive Officer, Executive Secretariat, (202) 634–6748.

Dated and issued: July 17, 1987.

Cynthia C. Matthews,

Executive Officer.

[FR Doc. 87–16735 Filed 7–20–87; 3:42 pm]

BILLING CODE 6750–06–M

FEDERAL DEPOSIT INSURANCE CORPORATION

Pursuant to the provisions of the "Government in the Sunshine Act" (5 U.S.C. 552b), notice is hereby given that at 3:22 p.m. on Wednesday, July 15, 1987, the Board of Directors of the Federal Deposit Insurance Corporation met in closed session to consider matters relating to the Corporation's corporate activities.

In calling the meeting, the Board determined, on motion of Director C. C. Hope, Jr. (appointive), seconded by Director Robert L. Clarke (Comptroller of the Currency), concurred in by Chairman L. William Seidman, that Corporation business required its consideration of the matters on less than seven days' notice to the public; that no earlier notice of the meeting was practicable; that the public interest did not require consideration of the matters in a meeting open to public observation; and that the matters could be considered in a closed meeting pursuant to subsections (c)(2) and (c)(9)(B) of the "Government in the Sunshine Act" (5 U.S.C. 552b(c)(2) and (c)(9)(B)).

The meeting was held in Room 6020 of the FDIC Building located at 550-17th Street, NW., Washington, DC.

Dated: July 20, 1987.

Federal Deposit Insurance Corporation.

Margaret M. Olsen,

Deputy Executive Secretary.

[FR Doc. 87–16731 Filed 7–20–87; 3:43 p.m.

BILLING CODE 6714–01–M

BOARD OF GOVERNORS OF THE FEDERAL RESERVE SYSTEM

TIME AND DATE: 11:00 a.m., Monday, July 27, 1987.

PLACE: Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 21st Streets, NW., Washington, DC 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.
2. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452–3204. You may call (202) 452–3207, beginning at approximately 5 p.m. two business days before this meeting, for a recorded announcement of bank and bank holding company applications scheduled for the meeting.

Dated: July 17, 1987.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 87–16687 Filed 7–20–87; 10:23 am]

BILLING CODE 6210–01–M

UNITED STATES POSTAL SERVICE BOARD OF GOVERNORS

The Board of Governors of the United States Postal Service, pursuant to its Bylaws (39 CFR 7.5) and the Government in the Sunshine Act (5 U.S.C. section 552b), hereby gives notice that it intends to hold a meeting at 1:00 p.m. on Monday, August 3, 1987, in Denver, Colorado, and at 8:00 a.m. on Tuesday, August 4, 1987, in Rooms 3 and 4, second floor, Warwick Hotel, 1776 Grant Street, Denver, Colorado, as indicated in the following paragraph, the August 3 meeting is closed to the public. The August 4 meeting is open to the public. The Board expects to discuss the matters stated in the agenda which is set forth below. Requests for information about the meeting should be addressed to the Secretary of the Board, David F. Harris, at (202) 268–4800.

The Board voted in accordance with the provisions of the Government in the Sunshine act to close to public observation its meeting scheduled for August 3, 1987, to consider matters associated with the collective bargaining process. [See 52 FR 26120, July 10, 1987.]

Agenda

Monday Session, August 3, 1987—1:00 p.m. (Closed)

1. Consideration of Collective Bargaining Matters.

Tuesday Session, August 4, 1987—8:00 a.m. (Open)

1. Minutes of the previous Meeting, July 6–7. 1987.
2. Remarks of the Postmaster General.
3. Status of CSRS/FERS Retirement Programs.
4. Briefing on Origin-Destination-Information-System (ODIS).
5. Quarterly Report on Financial Performance.
6. Quarterly Report on Service Performance.
7. Capital Investiments:
   a. Mid-Florida, GMF
   b. Middlesex-Essex, MA. GMF
   c. Clarksburg, WV. GMF
   d. Bryan, TX. GMF
   e. North Houston, TX. GMF
   f. Decision Support Information System.
8. Tentative Agenda for August 31-September 1, 1987, Meeting in Washington, DC.

David F. Harris,

Secretary.

[FR Doc. 87–16693 Filed 7–20–87; 11:01 am]

BILLING CODE 7710–12–M

SECURITIES AND EXCHANGE COMMISSION

FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: [52 FR 27106 July 17, 1987].

STATUS: Closed meeting.

PLACE: 450 Fifth Street, NW., Washington, DC.

DATE PREVIOUSLY ANNOUNCED: Wednesday, July 15, 1987.

CHANGE IN THE MEETING: Time change/additional items.

The following additional items will be considered at a closed meeting on Tuesday, July 21, 1987, at 2:30 p.m.

Institution of administrative proceeding of an enforcement nature.

Regulatory matter bearing enforcement implications.

An open meeting scheduled for Wednesday, July 22, 1987, at 10:00 a.m. has been changed to Wednesday, July 22, 1987, at 9:15 a.m.

Commissioner Fleischman, as duty officer, determined that Commission business required the above changes.

At times changes in Commission priorities require alterations in the scheduling of meeting items. For further information and to ascertain what, if any, matters have been added, deleted or postponed, please contact: Nancy Morris at (202) 272-3085.

July 20, 1987.

Shirley E. Hollis,

Assistant Secretary.

[FR Doc. 87-16717 Filed 7-20-87; 1:22 pm]

BILLING CODE 8010-01-M

TENNESSEE VALLEY AUTHORITY

(Meeting No. 1390)

TIME AND DATE: 9 a.m. (EDT), Friday, July 24, 1987.

PLACE: TVA West Tower Auditorium, 400 West Summit Hill Drive, Knoxville, Tennessee.

STATUS: Open.

Agenda

Approval of minutes of meeting held on June 24, 1987.

Discussion Item

1. Preliminary rate review.

Action Items

A—Budget and Financing

A1. Modification of Fiscal Year 1987 Capital Budget Financed from Power Proceeds and Borrowings.

A2. Revision to Fiscal Year 1987 Capital Budget Financed from Appropriations.

A3. Revision to Fiscal Year 1987 Operating Budget Financed from Appropriations.

A4. Revision to Fiscal Year 1987 Operating Budget Financed from Nonpower Proceeds.

B—Purchase Awards

[1] B1. Invitation SD-732067 Second Reissue—Indefinite Quantity Term Agreement for Office Furniture for the Division of Property and Services.

B2. Invitation KA-466381—Stacker/Reclaimer System, Including Installation, for Shawnee Fossil Plant.

D—Personnel Items

D1. Personal Services Contract with Coopers & Lybrand, Knoxville, Tennessee, for Professional Accounting Services, Requested by the Office of the Inspector General.

D2. Supplement to Personal Services Contract No. TV-67884A with Digital Engineering, Inc., Huntsville, Alabama, Providing for Additional Services in Connection with the Environmental Qualification Evaluation of Safety-Related Electrical Equipment at TVA Nuclear Plants, Requested by the Office of Nuclear Power.

D3. Supplement to Personal Services Contract No. TV-69831A with DiBenedetto Associates, North Andover, Massachusetts, for Assistance in Connection with Nuclear Plant Licensing Activities, Requested by the Office of Nuclear Power.

D4. Supplement to Personal Services Contract No. TV-65374A with United Engineers and Constructors, Inc., Philadelphia, Pennsylvania, Providing for the Performance of General Engineering, Design, and Architectural Services, Requested by the Office of Nuclear Power.

D5. Supplement to Personal Services Contract with Duke Engineering & Services, Inc., Charlotte, North Carolina, for Technical Assistance in Connection with Piping Analysis and Pipe Support Design Update Program for Watts Bar Nuclear Plant Unit 1, Requested by the Office of Nuclear Power.

D6. Supplement to Personal Services Contract No. TV-69450A with Cataract, Incorporated, Newtown, Pennsylvania, to Provide for Resources to Support the Browns Ferry Configuration Baseline Effort, Requested by the Office of Nuclear Power.

D7. Personal Services Contract for Engineering Services at Sequoyah Nuclear Plant—General Design and Field Support, Requested by the Office of Nuclear Power.

E—Real Property Transactions

E1. Grant and Conveyance of Easements and Highway Rights of Way to State of Mississippi, Affecting Approximately 7.7 Acres of Land Acquired for Construction of the Yellow Creek Distribution Center Access Roads and Railroads.

E2. Sales of Permanent Sewerline Easement to the Metropolitan Government of Nashville and Davidson County, Affecting a .25-Acre Portion of TVA's South Nashville 161-kV Substation Property at Nashville.

F—Unclassified

[1] F1. Memorandum of Understanding Between National Rural Electric Cooperative Association and TVA Covering Arrangements for Cooperation in Rural Job Creation and Community Development Activities.

F2. Supplement to Contract No. TV-62329A with Middle Tennessee Industrial Development Association to Provide Assistance under TVA's Special Opportunities Counties Program.

F3. Supplement to Contract No. TV-69460A with Chattanooga State Technical Community College for Cooperation in a Project to Conduct Job-Search Workshops and Provide for Training, Job Placement, and Relocation Assistance to Dislocated Tennessee Chemical Company Workers in Copper Hill, Tennessee.

F4. Supplement to Contract No. TV-68199A with W.S. Fleming & Associates, Inc., Providing for Research Activities by TVA in Support of the Mountain Cloud Chemistry/Forest Exposure Study.

F5. Contract No. TV-72467A with U.S. Department of the Air Force, Engineering and Services Center, Covering Arrangements for TVA to Conduct Hydrogeologic Investigations in Support of Bioreclamation at Columbus Air Force Base in Columbus, Mississippi.

F6. Contract No. TV-72468A with U.S. Department of the Army, Corps, of Engineers, Memphis District, for Performance by TVA of Distributional Surveys of Mussel Species *Potamilus capax* in the St. Francis River Basin.

F7. Subagreement to Memorandum of Agreement No. TV-23928A between TVA and U.S. Department of the Army, Corps of Engineers, Covering Arrangements for Removal of Concrete in Miter Gate Machinery Recess Bays at Pickwick Main Lock.

F8. Interagency Agreement (Contract No. TV-72473A) with U.S. Department of Energy (DOE) Covering Arrangements for TVA to Provide Technical Assistance in DOE's Alcohol Fuel Loan Guarantee Program.

[1] F9. Amendment to Administrative Cost Recovery Regulations Providing for Recovery of Certain Administrative Costs in Processing Quota Deer Hunt Permit Applications at Land Between the Lakes.

F10. Revised Organization Bulletin for TVA.

CONTACT PERSON FOR MORE INFORMATION: Alan Carmichael, Director of Information, or a member of his staff

[1] Items approved by individual Board members. This would give formal ratification to the Board's action.

can respond to requests for information about this meeting. Call (615) 632–8000, Knoxville, Tennessee. Information is also available at TVA's Washington Office (202) 245–0101.

Dated: July 17, 1987.

John G. Stewart,

Manager of Policy, Planning and Budget.

[FR Doc. 87–16681 Filed 7–20–87 9:23 am]

BILLING CODE 8120–01–M

Corrections

Federal Register
Vol. 52, No. 140
Wednesday, July 22, 1987

This section of the FEDERAL REGISTER contains editorial corrections of previously published Presidential, Rule, Proposed Rule, and Notice documents and volumes of the Code of Federal Regulations. These corrections are prepared by the Office of the Federal Register. Agency prepared corrections are issued as signed documents and appear in the appropriate document categories elsewhere in the issue.

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 60

[AD-FRL-2921-7]

Standards of Performance for New Stationary Sources; Quality Assurance Requirements for Gaseous Continuous Emission Monitoring Systems Used for Compliance Determination

Correction

In rule document 87-12564 beginning on page 21003 in the issue of Thursday, June 4, 1987, make the following corrections:

Appendix F to Part 60 [Corrected]

1. On page 21008, in the second column, in paragraph 4.3, in the second line, "for" should read "or".

2. On page 21009, in the first column, in paragraph (3), in the 15th line, "preparation" was misspelled.

3. On the same page, in the second column, in the sixth line, after "control" insert "take necessary corrective action to eliminate the problem. Following"; and in the eighth line, after "or" insert "RAA to determine whether the CEMS is operating properly. A".

BILLING CODE 1505-01-D

FEDERAL MARITIME COMMISSION

46 CFR Part 581

[Docket No. 86-6]

Service Contracts

Correction

In rule document 87-14583 beginning on page 23989 in the issue of Friday, June 26, 1987, make the following corrections:

§ 581.1 [Corrected]

1. On page 24006, in the first column, in § 581.1(i), in the first line, "Non-vessel-operation" should read "Non-vessel-operating".

2. On the same page, in the second column, in § 581.1(n), in the second line, "shipper" was misspelled, and in the 12th line "portion" should read "port".

3. On the same page, in the second column, in § 581.1(q), in the third line, "distributes" was misspelled.

For a Federal Maritime Commission correction to this document, see the Notices Section of this issue.

BILLING CODE 1505-01-D

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 87F-0153]

The Dow Chemical Co.; Filing of Food Additive Petition

Correction

In notice document 87-12660 appearing on page 21122 in the issue of Thursday, June 4, 1987, make the following correction:

On page 21122, in the second column, in the **SUPPLEMENTARY INFORMATION**, in the seventh line, "458674" should read "48674".

BILLING CODE 1505-01-D

federal register

Wednesday
July 22, 1987

Part II

Department of Transportation

National Highway Traffic Safety Administration

23 CFR Part 1309

Incentive Grant Criteria for Alcohol Traffic Safety Programs; Final Rule and Notice of Proposed Rulemaking

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

23 CFR Part 1309

[Docket No. 82-18; Notice 10]

Incentive Grant Criteria for Alcohol Traffic Safety Programs

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation.

ACTION: Final rule.

SUMMARY: On April 2, 1987, Congress enacted the Surface Transportation and Uniform Relocation Assistance Act of 1987. Section 203 of the Act amends section 408 of the Highway Safety Act, 23 U.S.C. 408, by extending from three to five, the number of fiscal years in which a State may receive section 408 incentive grants.

The amendments made in today's final rule revise portions of the agency's regulation implementing section 408 of the Highway Safety Act of 1966, to reflect this statutory change. These amendments do not change the substantive requirements for qualifying a State for incentive grant funds; they merely implement the change mandated by section 203. Revisions to other portions of this regulation, relating to supplemental alcohol incentive grants, are being proposed under a separate rulemaking action which is published in a Notice of Proposed Rulemaking elsewhere in this issue of the **Federal Register.**

EFFECTIVE DATE: The amendments made by this final rule are effective on July 22, 1987.

FOR FURTHER INFORMATION CONTACT: Mr. George Reagle, Associate Administrator for Traffic Safety Programs, Room 5125, National Highway Traffic Safety Administration, 400 Seventh Street, SW., Washington, DC 20590; telephone (202) 366-1755.

SUPPLEMENTARY INFORMATION: On April 2, 1987, the Surface Transportation and Uniform Relocation Assistance Act of 1987, Pub. L. 100-17, was enacted by Congress. Section 203 of the Act amends section 408 of the Highway Safety Act, 23 U.S.C. 408, Incentive Grant Criteria for Alcohol Traffic Safety Programs (the 408 program). The Act extends from three to five, the number of fiscal years in which a State may receive section 408 grants. This extension applies to basic, supplemental and special grants, awarded under the section 408 program.

Background

The 408 program was enacted in 1982, Pub. L. 97-364, as a two-tier grant program, providing Federal funds (basic and supplemental grants) to States that qualify by implementing certain programs designed to reduce the drunk driving problem. The amount received as a basic grant equals 30 percent of the State's FY 1983 section 402 apportionment. The amount received as a supplemental grant may not exceed 20 percent of the State's FY 1983 section 402 apportionment. Section 402 apportionments are made to the States under a grant program established by the Highway Safety Act of 1966, 23 U.S.C. 402, to aid the States in conducting highway safety programs.

In 1984, section 408 was amended, Pub. L. 98-363, to expand the scope of the 408 program to include drugged as well as drunk driving countermeasures and to establish a third grant for which States may qualify (special grants) to encourage the States to enact tough minimum sentencing standards. The amount received as a special grant may not exceed 5 percent of the State's FY 1984 sections 402 and 408 apportionments.

Under the 1982 Act, as amended in 1984, States could receive section 408 incentive grants in no more than three fiscal years although, as discussed in the NPRM published elsewhere in today's **Federal Register,** the years in which a basic grant is received need not be the same years as those in which a supplemental grant is received. Similarly, a special grant could be received in different years than those in which a basic or supplemental grant is received. The Act also provided that in the first fiscal year the State receives a grant, the Federal share could not exceed 75 percent of the cost of implementing and enforcing the State's alcohol and controlled substance traffic safety program. The Federal share could not exceed 50 percent of such cost in the second fiscal year, and 25 percent in the third.

Extension From Three Years to Five Years

Section 203 of Pub. L. 100-17 amends section 408 by extending from three to five, the number of fiscal years in which a State may receive section 408 incentive grants. The section also provides that the Federal share in the fourth and fifth fiscal year may not exceed 25 percent of the cost of implementing and enforcing the State's alcohol and controlled substance traffic safety program. This revision implements these changes.

Because this regulation relates to grants, the requirements of the Administrative Procedure Act, 5 U.S.C. 553, are not applicable. Moreover, the legislative change addressed in this final rule involves no discretion on the part of the agency. As a result, the agency does not believe it would benefit by the notice and comment procedures with regard to the amendments made by today's final rule. These amendments merely implement the legislation by making the changes to the agency's regulations about which the agency has no discretion. They do not change the substantive requirements for qualifying a State for incentive grant funds. Therefore, even if the notice and comment provisions of the Administrative Procedure Act did apply, the agency would have good cause to dispense with notice and comment as unnecessary.

By contrast, the agency has discretion in implementing those changes in the legislation which pertain to supplemental grants. The agency believes that it would benefit by affording interested parties with notice and an opportunity to comment on revisions to the portions of the agency's Incentive Grant Criteria for Alcohol Traffic Safety Programs regulation, 23 CFR Part 1309, relating to supplemental alcohol incentive grants. A Notice of Proposed Rulemaking on this subject is being published elsewhere in this issue of the **Federal Register.** (See that notice for details.)

There are a number of States that first qualified for basic grants in FY 1984, and that may be eligible for a fourth year basic grant in FY 1987. Such States may apply immediately for a fourth year basic grant in FY 1987 in accordance with the procedures established in 23 CFR 1309.4. The Notice of Proposed Rulemaking published elsewhere in this issue of the **Federal Register** explains when such States may apply for a fourth and fifth year of supplemental grant funds.

Section 203 of Pub. L. 100-17 also amends section 408 of the Highway Safety Act by providing that "sums authorized by this subsection shall remain available until expended." The period of availability of 408 funds is not stated in the Agency's Incentive Grant Criteria for Alcohol Traffic Safety Programs regulations. This legislative change is therefore not inconsistent with the agency's current regulation, and will require no regulatory revisions.

This final rule includes a technical correction to § 1309.4(a)(2) of the regulation, to reflect a reorganization

that recently took place within the agency.

Section 1309.4(a)(3) is being amended to reflect that a State may submit an alcohol safety plan which covers as many as five years. States continue to have the option of submitting either single year or multiple year plans. The agency believes the other amendments to § 1309.4 require no explanation.

Economic and Other Effects

NHTSA has analyzed the effect of this action and has determined that it is not "major" within the meaning of Executive Order 12291 or "significant" within the meaning of Department of Transportation regulatory policies and procedures. State participation in the 408 program is voluntary. Accordingly, a full regulatory evaluation is not necessary. Moreover, this rule merely implements the non-discretionary aspects of the new law. Thus, if there were any economic impacts associated with this action, they would flow from the law, not this rule.

When the agency promulgated regulations to implement the section 408 program on February 7, 1983 (48 FR 5545), it determined that the rulemaking should be classified as significant under the Department's regulatory policies and procedures. A regulatory evaluation was prepared at that time and placed in the public docket (Docket No. 82–18; Notice 5). Persons interested in reviewing this document should request it from the docket section.

As discussed above, since this matter relates to grants, the notice and comment requirements established in the Administrative Procedure Act, 5 U.S.C. 553, are not applicable. Moreover, the agency does not believe it is necessary to afford the public with notice and an opportunity to comment. The revisions in this document merely reflect statutory changes mandated by section 203 of the Surface Transportation and Uniform Relocation Assistance Act of 1987. They require no interpretation and provide the agency with no discretion.

Because the agency is not required to publish a notice of proposed rulemaking regarding this rule, the agency is not required to analyze the effect of this rule on small entities, in accordance with the Regulatory Flexibility Act. The agency has nonetheless evaluated the effects of this rule on small entities. Based on the evaluation, I certify that this rule will not have a significant economic impact on a substantial number of small entities. States will be recipients of any funds awarded under the regulation and, accordingly, no regulatory flexibility analysis is necessary.

The requirements in this rule that States retain and report to the Federal government information which demonstrates compliance with alcohol incentive grant criteria are considered to be information collection requirements as that term is defined by the Office of Management and Budget (OMB) in 5 CFR Part 1320. Accordingly, these requirements have been submitted to and approved by OMB, pursuant to the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*). These requirements have been approved through April 30, 1990; OMB No. 2127–0501.

The Agency has also analyzed this action for the purpose of the National Environmental Policy Act. The Agency has determined that this action will not have any effect on the human environment.

Effective date

Because the amendments are not covered by the Administrative Procedure Act, and since they only contain technical changes or merely implement legislative changes and do not impose any additional requirements, the amendments are effective upon publication in the **Federal Register.**

List of Subjects in 23 CFR Part 1309

Alcohol, Drugs, Grant programs, Transportation, Highway safety.

PART 1309—[AMENDED]

In accordance with the foregoing, Part 1309 of Title 23 of the Code of Federal Regulations is revised as follows:

1. The authority citation for Part 1309 continues to read as follows:

Authority: 23 U.S.C. 408; delegation of authority at 49 CFR 1.50.

§ 1309.4 [Amended]

2. Section 1309.4(a)(2) is revised to read as follows:

* * * * *

(2) Submit a certification to the Director, Office of Alcohol and State Programs, NTS–20, NHTSA, 400 Seventh Street, SW., Washington, DC 20590 that:

3. In § 1309.4(a)(3), the phrase "for one, two or three years, as applicable" is replaced with the phrase "up to five years, as applicable".

4. In § 1309.4(b), line 2, the word "three" is replaced with the word "five".

5. In § 1309.4(b)(6), the phrase ", fourth and fifth" is inserted after the word "third" and an "s" is added to the word "year".

Issued on July 17, 1987.

Diane K. Steed,

National Highway Traffic Safety Administrator.

[FR Doc. 87–16611 Filed 7–17–87; 2:12 pm]

BILLING CODE 4910–59–M

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

23 CFR Part 1309

[Docket No. 82-18; Notice 9]

Incentive Grant Criteria for Alcohol Traffic Safety Programs

AGENCY: National Highway Traffic Safety Administration (NHTSA), Department of Transportation.

ACTION: Notice of proposed rulemaking.

SUMMARY: On April 2, 1987, Congress enacted the Surface Transportation and Uniform Relocation Assistance Act of 1987. Section 203 of the Act amends section 408 of the Highway Safety Act, 23 U.S.C. 408, by extending from three to five, the number of fiscal years in which a State may receive alcohol incentive grants

This Notice of Proposed Rulemaking (NPRM) proposes revisions to portion of the agency's regulation implementing section 408 of the Highway Safety Act of 1966, relating to supplemental alcohol incentive grants, to reflect this statutory change. Other portions of the regulation are being amended under a separate rulemaking action which is published elsewhere in this issue of the **Federal Register**. The agency requests comments on the proposed changes discussed in this notice.

DATE: Comments must be received by August 21, 1987. The rule will be effective upon publication of the final rule in the **Federal Register**.

ADDRESS: Written comments should refer to the docket number and the number of this notice and be submitted (preferably in ten copies) to: Docket Section, National Highway Traffic Safety Administration, Room 5109, Nassif Building, 400 Seventh Street SW., Washington, DC 20590. (Docket hours are from 8 a.m. to 4 p.m.)

FOR FURTHER INFORMATION CONTACT: Mr. George Reagle, Associate Administrator for Traffic Safety Programs, NTS-01, National Highway Traffic Safety Administration, 400 Seventh Street SW., Washington, DC 20590; telephone (202) 366-1755.

SUPPLEMENTARY INFORMATION: On April 2, 1987, the Surface Transportation and Uniform Relocation Assistance Act of 1987, Pub. L. 100-17, was enacted by Congress. Section 203 of the Act amends section 408, of the Highway Safety Act, 23 U.S.C. 408, Incentive Grant Criteria for Alcohol Traffic Safety Programs (the 408 program).

Background

The 408 program was enacted in 1982, Pub. L. 97-364, as a two-tier grant program, providing Federal funds (basic and supplemental grants) to States that qualify by implementing certain programs designed to reduce the drunk driving problem. The amount received as a basic grant equals 30 percent of the State's FY 1983 section 402 apportionment. The amount received as a supplemental grant may not exceed 20 percent of the State's FY 1983 section 402 apportionment. Section 402 apportionments are made to the States under a grant program established by the Highway Safety Act of 1966, 23 U.S.C. 402, to aid the States in conducting highway safety programs.

In 1984, section 408 was amended, Pub. L. 98-363, to expand the scope of the 408 program to include drugged as well as drunk driving countermeasures and to establish a third grant for which States may qualify (special grants) to encourage States to enact tough minimum sentencing standards. The amount received as a special grant may not exceed 5 percent of the State's FY 1984 section 402 and 408 apportionments.

Under the 1982 Act, as amended in 1984, States could receive section 408 incentive grants in no more than three fiscal years although, as discussed in further detail below, the years in which a supplemental grant is received need not be the same years as those in which a basic grant is received. Similarly, a special grant could be received in different years than those in which a basic or supplemental grant is received. The Act also provided that in the first fiscal year the State receives a grant, the Federal share could not exceed 75 percent of the cost of implementing and enforcing the State's alcohol and controlled substance traffic safety program. The Federal share could not exceed 50 percent of such cost in the second fiscal year, and 25 percent in the third.

Section 203 of Pub. L. 100-17 amends section 408 by extending from three to five, the number of fiscal years in which a State my receive section 408 incentive grants. The section also provides that the Federal share in the fourth and fifth fiscal year may not exceed 25 percent of the cost of implementing and enforcing the State's alcohol and controlled substance traffic safety program. In a separate rulemaking action published elsewhere in this issue of the **Federal Register**, the Agency is issuing a final rule to implement these changes. (See that rule for details.)

Supplemental Grants

Congress provided in section 408 that a State is eligible for a supplemental grant if the State is eligible for a basic grant and provides for some or all of the criteria established by the Secretary of Transportation. By regulation, a total of twenty-two supplemental criteria have been promulgated. Under the agency's current regulation, in addition to showing that it has a license suspension system in which the average time from arrest to susspension of a license does not exceed an average of 45 days, a State must demonstrate compliance with eight of the twenty-two criteria to qualify for a 20 percent supplemental grant in the first year, or with four of these criteria to qualify for a 10 percent supplemental grant. To qualify for a supplemental grant for a second and a third year, a State must show that it has increased its performance for each of the requirements previously adopted, and adopt two more requirements for each subsequent year, except that a State does not have to implement more than a total of fifteen criteria.

The agency is seeking comments on the manner in which a State must demonstrate that it qualifies for a supplemental grant in the fourth and fifth years. In extending the grant availability for two additional fiscal years, Congress did not provide any guidance on whether it expected an increase in the stringency of requirements to qualify a State for a grant, either as to the number of criteria to be met or the performance level of criteria already adopted.

The agency proposes that a State would not have to adopt any additional requirements in the fourth and fifth years. For example, if a State qualifies for a supplemental grant by implementing eight supplemental criteria in the first year, the State would be required to adopt two additional supplemental criteria in the second and third fiscal years, for a total of twelve. In the fourth and fifth years, the State would be required to adopt no additional supplemental criteria. The agency is concerned that requiring a State to adopt additional criteria to qualify for a supplemental grant in the fourth and fifth fiscal years could diminish the effectiveness of criteria adopted in the first three fiscal years by diverting resources from implementation of those criteria. The agency requests comments from the public on this proposal.

The agency believes it may be difficult for a State to demonstrate increased performance for all previously

adopted criteria in each of the four fiscal years following the first year of qualification. However, we wish to ensure that each State continues to maintain the performance that it has achieved. Accordingly, we are proposing that, in the fourth and fifth fiscal years, a State need not show increased performance for criteria adopted in previous fiscal years. The State would only be required to demonstrate that performance has been maintained in the criteria previously adopted. The agency requests comments on this tentative conclusion.

There are a number of States which first qualified for basic and supplemental grants in FY 1984, and which may be eligible for a fourth year of these grants in FY 1987. The final rule published elsewhere in this issue of the **Federal Register** permits eligible States, which received basic grants in FY's 1984–86, to apply immediately for a fourth year basic grant in FY 1987 in accordance with the procedures established in 23 CFR 1309.4. The agency is making every effort to promulgate a final rule on these amendments regarding supplemental grants by the end of the fiscal year to allow eligible States to apply also for a fourth year of supplemental grant funds in FY 1987.

In the event that a final rule is issued after the end of FY 1987, eligible States may apply for a fourth year supplemental grant and a fifth year basic grant in FY 1988. They may apply for a fifth year supplemental grant in FY 1989, provided the State continues to meet the basic criteria during that year. This is consistent with a previous interpretation of the agency that section 408 does not require a State to qualify for grants in consecutive years, and that the five year limitation on a State receiving grants applies separately to each type of grant.

Comments

Interested persons are invited to comment on this proposal. All comments must be limited to 15 pages in length. Necessary attachments may be appended to those submissions without regard to the 15 page limit. (49 CFR 553.21.) This limitation is intended to encourage commenters to detail their primary arguments in a concise fashion.

Written comments to the public docket must be received by August 21, 1987. The agency has not provided a longer comment period because it wishes to expedite the implementation of the new law that extends from three to five, the number of fiscal years in which a State may receive Alcohol Incentive grants. The agency's current regulation establishes procedures for States to qualify for such funds in only three years. Fourteen States may already be eligible to receive a fourth year of grant money in this fiscal year, which ends on September 30, 1987. In order to expedite the submission of comments, simultaneous with the issuance of this notice NHTSA will mail copies to all Governors and Governors' Representatives for Highway Safety.

All comments received before the close of business on the comment closing date, will be considered and will be available for examination in the docket at the above address before and after that date. To the extent possible, comments filed after the closing date will also be considered. However, the rulemaking action may proceed at any time after that date. NHTSA will continue to file relevant material in the docket as it becomes available after the closing date, and it is recommended that interested persons continue to examine the docket for new material.

Those persons desiring to be notified upon receipt of their comments in the docket should enclose, in the envelope with their comments, a self-addressed stamped postcard. Upon receiving the comments, the docket supervisor will return the postcard by mail.

Copies of all comments will be placed in Docket 82–18; Notice 9 of the NHTSA Docket Section in Room 5109, Nassif Building, 400 Seventh Street SW., Washington, DC 20590.

Economic and Other Effects

NHTSA has analyzed the effect of this action and has determined that it is not "major" within the meaning of Executive Order 12291 or "significant" within the meaning of Department of Transportation regulatory policies and procedures. State participation in the 408 program is voluntary. Accordingly, neither a draft Regulatory Analysis nor a Preliminary Evaluation is required.

When the agency promulgated regulations to implement the section 408 program on February 7, 1983 (48 FR 5545), it determined that the rulemaking should be classified as significant under the Department's regulatory policies and procedures. A regulatory evaluation was prepared at that time and placed in the public docket (Docket No. 82–18; Notice 5). Persons interested in reviewing this document, should request it from the docket section.

In compliance with the Regulatory Flexibility Act, the agency has evaluated the effects of this rule on small entities. Based on the evaluation, I certify that this rule will not have a significant economic impact on a substantial number of small entities. States will be recipients of any funds awarded under the regulation and, accordingly, the preparation of an Initial Regulatory Flexibility Analysis is unnecessary.

The requirements in this proposal that States retain and report to the Federal government information which demonstrates compliance with alcohol incentive grant criteria, are considered to be information collection requirements as that term is defined by the Office of Management and Budget (OMB) in 5 CFR Part 1320. Accordingly, these proposed requirements have been submitted to and approved by OMB, pursuant to the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*). These requirements have been approved through April 30, 1990; OMB No. 2127–0501.

The agency has also analyzed this action for the purpose of the National Environmental Policy Act. The agency has determined that this action will not have any effect on the human environment.

List of Subjects in 23 CFR Part 1309

Alcohol, Drugs, Grant programs, Transportation, Highway safety.

PART 1309—[AMENDED]

In accordance with the foregoing, NHTSA proposes the revision of Part 1309 of Title 23 of the Code of Federal Regulations as follows:

1. The authority citation for Part 1309 continues to read as follows:

Authority: 23 U.S.C. 408; delegation of authority at 49 CFR 1.50.

§ 1309.6 [Amended]

2. Section 1309.6(e) is added to read as follows:

* * * * *

(e) To qualify for a supplemental grant for a fourth and fifth year, a State must show that it has maintained its performance for each of its previously adopted requirements.

Issued on July 17, 1987.

Diane K. Steed,

National Highway Traffic Safety Administrator.

[FR Doc. 87–16612 Filed 7–17–87; 2:12 pm]

BILLING CODE 4910–59–M

federal register

Wednesday
July 22, 1987

Part III

Environmental Protection Agency

40 CFR Part 300

National Priorities List for Uncontrolled Hazardous Waste Sites; Final Rule and Proposed Rule Concerning Federal Facility Sites

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 300

[FRL-3187-6]

National Priorities List for Uncontrolled Hazardous Waste Sites

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency ("EPA") is amending the National Oil and Hazardous Substances Contingency Plan ("NCP"), which was promulgated on July 16, 1982, pursuant to section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 ("CERCLA"), as amended by the Superfund Amendments and Reauthorization Act of 1986 (SARA), and Executive Order 12580 (52 FR 2923, January 29, 1987). CERCLA requires that the NCP include a list of national priorities among the known releases or threatened releases of hazardous substances, pollutants, and contaminants throughout the United States, and that the list be revised at least annually. The National Priorities List ("NPL"), initially promulgated as Appendix B of the NCP on September 8, 1983, constitutes this list and is being revised today by the addition of 67 sites to the final NPL and 32 Federal facility sites to the Federal section of the NPL. EPA has reviewed public comments on the listing of these sites and has decided that they meet the eligibility requirements of the NPL.

EFFECTIVE DATE: The effective date for this amendment to the NCP shall be August 21, 1987. CERCLA section 305 provides for a legislative veto of regulations promulgated under CERCLA. Although INS v. Chadha, 462 U.S. 919, 103 S. Ct. 2764 (1983), cast the validity of the legislative veto into question, EPA has transmitted a copy of this regulation to the Secretary of the Senate and the Clerk of the House of Representatives. If any action by Congress calls the effective date of this regulation into question, the Agency will publish a notice of clarification in the **Federal Register.**

ADDRESSES: Addresses for the Headquarters and Regional dockets follow. For further details on what these dockets contain, see Section I of the "Supplementary Information" portion of this preamble.

Tina Maragousis, Headquarters, U.S. EPA CERCLA Docket Office, Waterside Mall Subbasement, 401 M Street, SW., Washington, DC; 20460, 202/382-3046

Peg Nelson, Region 1, U.S. EPA Library, Room 1500, John F. Kennedy Federal Bldg., Boston, MA 02203, 617/565-3300

Carole Petersen, Region 2, Site Investigation and Compliance Branch, 26 Federal Plaza, 7th Floor, Room 737, New York, NY 10278, 212/264-8677

Diane McCreary, Region 3, U.S. EPA Library, 5th Floor, 841 Chestnut Streets, Philadelphia, PA 19106, 215/597-0580

Gayle Alston, Region 4, U.S. EPA Library, Room G-6, 345 Courtland Street, NE., Atlanta, GA 30365, 404/347-4216

Lou Tilley, Region 5, U.S. EPA Library, 16th Floor, 230 South Dearborn Street, Chicago, IL 60604, 312/353-2022

Barry Nash, Region 6, 1445 Ross Avenue, Mail Code 6H-ES, Dallas, TX 75202-2733, 214/655-6740

Connie McKenzie, Region 7, U.S. EPA Library, 726 Minnesota Avenue, Kanasa City, KS 66101, 913/236-2828

Dolores Eddy, Region 8, U.S. EPA Library, 999 18th Street, Suite 500, Denver, CO 80202-2405, 303/293-1444

Linda Sunnen, Region 9, U.S. EPA Library, 6th Floor, 215 Fremont Street, San Francisco, CA 94105, 415/974-8082

David Bennett, Region 10, U.S. EPA, 11th Floor, 1200 6th Avenue, Mail Stop HW-113, Seattle, WA 98101, 206/442-2103

FOR FURTHER INFORMATION CONTACT: Trudi J. Fancher, Hazardous Site Evaluation Division, Office of Emergency and Remedial Response (WH-548A), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460, Phone (800) 424-9346 (or 382-3000 in the Washington, DC, metropolitan area).

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Introduction

Organization of the Preamble

Section I of the preamble to this final rule, which adds 67 sites and 32 Federal facility sites to the National Priorities List (NPL), provides a guide to information in this preamble, explains the historical background of the NPL, and provides information on the public docket for sites included in this rule. Sections II through IX are self-explanatory.

Background of the NPL

Pursuant to section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, 42 U.S.C. 9601 through 9657 ("CERCLA" or the "Act"), and Executive Order 12316 (46 FR 42237, August 20, 1981), the Environmental Protection Agency ("EPA" or "Agency") promulgated the revised National Contingency Plan ("NCP"), 40 CFR Part 300, on July 16, 1982 (47 FR 31180) and amendments to the NCP on September 16, 1985 (50 FR 37624) and November 20, 1985 (50 FR 47912). The NCP and its amendments implement responsibilities and authorities created by CERCLA to respond to releases and threatened releases of hazardous substances, pollutants, and contaminants.

Section 105(8)(A) of CERCLA requires that the NCP include criteria for determining priorities among releases or threatened releases throughout the United States for the purpose of taking remedial action and, to the extent practicable, take into account the potential urgency of such action for the purpose of taking removal action. Removal action involves cleanup or other actions that are taken in response to releases or threats of releases on a short-term or temporary basis (CERCLA section 101(23)). Remedial action tends to be long-term in nature and involves response actions which are consistent with a permanent remedy for a release (CERCLA section 101(24)).

Criteria for determining priorities for possible remedial actions financed by the Fund established under CERCLA are included in the Hazard Ranking System ("HRS"), which EPA promulgated as Appendix A of the NCP (47 FR 31219, July 16, 1982).

Section 105(8)(B) of CERCLA required that the criteria provided by the HRS be used to prepare a list of national priorities among the known releases or threatened releases of hazardous substances, pollutants, or contaminants throughout the United States, and that to the extent practicable, at least 400 sites be designated on this National Priorities List (NPL). An original NPL of 406 sites was promulgated on September 8, 1983 (48 FR 40658). The NPL has been expanded since then (see 49 FR 19480, May 8, 1984; 49 FR 37070, September 21, 1984; 50 FR 6320, February 14, 1985; 50 FR 37630, September 16, 1985; and 51 FR 21054, June 10, 1986). On March 7, 1986

(51 FR 7935), EPA published a notice to delete eight sites from the NPL. The Agency has also had a number of proposed rulemakings regarding site listing (see 48 FR 9311, March 4, 1983; 48 FR 40674, September 8, 1983; 49 FR 40320, October 15, 1984; 50 FR 14115, April 10, 1985; 50 FR 37950, September 18, 1985; 51 FR 21099, June 10, 1986; and 52 FR 2492, January 22, 1987).

Section 105 of CERCLA has been amended by the Superfund Amendments and Reauthorization Act of 1986 (SARA) by the addition of subsection (c). This subsection requires that the Agency promulgate amendments to the hazard ranking system in effect as of September 1, 1984. The effective date for the amended hazard ranking will be no later than 24 months after the enactment of SARA. The amended hazard ranking system shall be applied to any site or facility to be newly listed on the NPL after the effective date for the amended hazard ranking system. Until such effective date of the regulations, the hazard ranking system in effect on September 1, 1984, shall continue to be used to evaluate sites for the NPL. In addition, section 105(c) specifies that the Agency will not be required to reevaluate, after the date of enactmenf of SARA, the hazard ranking of any site which was evaluated in accordance with the existing criteria required by section 105(c) and which was assigned a national priority under the NCP.

The Agency will continue to use the existing HRS until the revised HRS becomes effective. The 67 sites and 32 Federal facility sites added to the final NPL today were ranked with the existing HRS. These additions bring the total number of final NPL sites to 802. In addition, EPA has proposed to add 149 sites to the NPL, making the total number of proposed and final NPL sites to 951.

This final rule addresses sites proposed in NPL Update #2 (October 15, 1984), Update #3 (April 10, 1985), Update #4 (September 18, 1985), Update #5 (June 10, 1986), and Update #6 (January 22, 1987). EPA has carefully considered public comments submitted for the sites proposed in Updates #2, #3, and #4, and made some modifications in this final rule in response to those comments. For this final rule, EPA also considered only those sites proposed as part of Update #5 and Update #6 for which the Agency received no comments.

Responses to site-specific HRS comments are presented in the "Support Document for the Revised National Priorities List—Final Rule #3/#4," which is a separate document available in the EPA dockets in Washington, DC, and the Regional Offices (see Addresses).

Information Available to the Public

The Headquarters and Regional public dockets for the NPL will contain HRS score sheets for each final site, a Documentation Record for each site describing the information used to compute the scores, a list of document references, comments received, and the "Support Document for the Revised National Priorities List—Final Rule #3/#4." The Regional public docket will also include the documents referenced in the Documentation Record which contain the background data EPA relied upon in calculating or evaluating the HRS scores. In addition, documents with some relevance to the scoring of each site, but which were not used as references, are also retained by the appropriate Regional offices. All of these documents will be available when this notice is published in the **Federal Register.**

The Headquarters public docket is available for viewing by appointment only from 9:00 a.m. to 4:00 p.m., Monday through Friday excluding holidays.

Requests for copies of HRS score sheets, documentation records, background documents, and the Support Document should be directed to either the Headquarters or appropriate Regional docket (see Addresses). An informal written request, rather than a formal request, should be the ordinary procedure for obtaining copies.

A statement of EPA's information release policy, describing what information the Agency discloses in response to Freedom of Information Act requests from the public, was printed in the **Federal Register** (52 FR 5578, February 25, 1987).

II. Purpose and Implementation of the NPL

Purpose

The primary purpose of the NPL is stated in the legislative history of CERCLA (Report of the Committee on Environment and Public Works, Senate Report No. 96–848, 96th Cong., 2d, Sess. 60 (1980)):

> The NPL serves primarily informational purposes, identifying for the States and the public those facilities and sites or other releases which appear to warrant remedial actions. Inclusion of a facility or site on the list does not in itself reflect a judgment of the activities of its owner or operator, it does not require those persons to undertake any action, nor does it assign liability to any person. Subsequent government action in the form of remedial actions or enforcement actions will be necessary in order to do so, and these actions will be attended by all appropriate procedural safeguards.

The purpose of the NPL, therefore, is primarily to serve as an informational tool for use by EPA in identifying sites that appear to present a significant risk to public health or the environment. The initial identification of a site for the NPL is intended primarily to guide EPA in determining which sites warrant further investigation, to assess the nature and extent of the public health and environmental risks associated with the site, and to determine what CERCLA-financed remedial action(s), if any, may be appropriate. Inclusion of a site on the NPL does not establish that EPA necessarily will undertake response actions. Moreover, listing does not require any action of any private party, not does it determine the liability of any party for the cost of cleanup at the site. A site need not be on the NPL to be the subject of CERCLA-financed removal actions, actions brought pursuant to sections 106 or 107(a)(4)(b) of CERCLA, or remedial investigations/feasibility studies.

Federal facility sites are now eligible for inclusion on the NPL pursuant to § 300.66(e)(2) of the NCP. However, section 111(e)(3) of CERCLA as amended by SARA limits the expenditure of Superfund monies at Federally-owned facilities. Federal facility sites are subject to the requirements of section 120 of SARA.

Implementation

EPA's policy is to pursue cleanup of hazardous waste sites using the appropriate response and/or enforcement actions which are available to the Agency, including authorities other than CERCLA. Publication of sites on the NPL will serve as notice to any potentially responsible party that the Agency may initiate Fund-financed response action. The Agency will decide on a site-by-site basis whether to take enforcement or other action under CERCLA or other authorities, or whether to proceed directly with Superfund-financed CERCLA response actions and seek recovery of response costs after cleanup. To the extent feasible, once sites are listed on the NPL, EPA will determine high-priority candidates for either Superfund-financed response action or enforcement action through both State and Federal initiatives. These determinations will take into account which approach is more likely to most expeditiously accomplish cleanup of the site while using the Superfund's limited resources as efficiently as possible.

Funding of response actions for sites will not necessarily take place in the

same order as a site's ranking on the NPL. In addition, although the HRS scores used to place sites on the NPL may be helpful to the Agency in determining priorities for cleanup and other response activities among sites on the NPL, EPA does not rely on the scores as the sole means of determining such priorities.

The information collected to develop HRS scores is not sufficient in itself to determine the appropriate remedy for a particular site. EPA relies on further, more detailed studies to determine what response, if any, is appropriate. These studies will take into account the extent and magnitude of contaminants in the environment, the risk to affected populations and environment, the cost to correct problems at the site, and the response actions that have been taken by potentially responsible parties or others. Decisions on the type and extent of action to be taken at these sites are made in accordance with the criteria contained in Subpart F of the NCP. After conducting these additional studies, EPA may conclude that it is not desirable to conduct an Agency response action at some sites on the NPL because of more pressing needs at other sites, or because an enforcement action may instigate or force private party cleanup. Given the limited resources available in Superfund, the Agency must carefully balance the relative needs for response at the numerous sites it has studied. It is also possible that EPA will conclude after further analysis that the site does not warrant response action.

Revisions to the NPL such as today's rulemaking may move some previously listed sites to a lower position on the NPL. If EPA has initiated action such as a remedial investigation/feasibility study (RI/FS) at a site, the Agency does not intend to cease such actions in order to determine if a subsequently listed site should have a higher priority for funding. Rather, the Agency will continue funding site studies and remedial actions once they have been initiated, regardless of whether higher-scoring sites are later added to the NPL.

The NPL does not determine priorities for removal actions; EPA may take removal actions at any site, whether listed or not, that meets the criteria of §§ 300.65 through 300.67 of the NCP. Likewise, EPA may take enforcement actions under applicable statutes against responsible parties regardless of whether the site is on the NPL, although, as a practical matter, the focus of EPA's enforcement actions has been and will continue to be on NPL sites.

A site cannot undergo Superfund-financed remedial action until it is placed on the final NPL. However, an RI/FS can be performed at proposed sites pursuant to the Agency's removal authority under CERCLA, as outlined in § 300.68(a)(1) of the NCP. Section 101(23) of CERCLA defines "remove" or "removal" to include "such actions as may be necessary to monitor, assess and evaluate the release or threat of release * * *". The definition of "removal" also includes "action taken under section 104(b) of this Act * * *". Section 104(b) authorizes the Agency to perform studies, investigations, and other information-gathering activities.

The Agency may elect to conduct an RI/FS at a proposed NPL site in preparation for a possible Superfund-financed remedial action in a number of circumstances, such as when the Agency believes that delay in commencing the studies may create unnecessary risks to human health or the environment. In making such a decision, the Agency assumes the risk that after consideration of public comments and the consistent application of the HRS, it is possible that the proposed site might not qualify for the NPL. In assuming this risk, the Agency has determined that the desirability of expediting remedial action through the initiation of the investigational stage prior to placing a site on the NPL outweighs the risk of expending a limited amount of Superfund monies for the RI/FS. In addition, information obtained from an RI/FS can assist the Agency in determining whether to conduct a removal action at the site.

III. Process for Establishing and Updating the NPL

There are three mechanisms for placing sites on the NPL. The principal mechanism is the application of the HRS. The HRS serves as screening device to evaluate the relative potential of uncontrolled hazardous substances to cause human health or safety problems, or ecological or environmental damage. The HRS takes into account "pathways" to human or environmental exposure in terms of numerical scores. Those sites that score 28.50 or greater on the HRS, and which are otherwise eligible, are proposed for listing.

In addition, States may designate a single site as the State top priority. In rare instances, EPA may utilize the listing provision promulgated as § 300.66(b)(4) of the NCP (50 FR 37624, September 16, 1985).

Section 300.66(b)(4) of the NCP allows certain sites with HRS scores below 28.50 to be eligible for the NPL. These sites may qualify for the NPL if all of the following occur:

- The Agency for Toxic Substances and Disease Registry of the U.S. Department of Health and Human Services has issued a health advisory which recommends dissociation of individuals from the release.
- EPA determines that the release poses a significant threat to public health.
- EPA anticipates that it will be more cost-effective to use its remedial authority than to use its removal authority to respond to the release.

States have the primary responsibility for identifying sites, computing HRS scores, and submitting candidates sites to the EPA Regional Offices. EPA Regional Offices conduct a quality control review of the States' candidate sites, and may assist in investigating, sampling, monitoring, and scoring sites. Regional Offices may consider candidate sites in addition to those submitted by States. EPA Headquarters conducts further quality assurance audits to ensure accuracy and consistency among the various EPA and State offices participating in the scoring. The Agency then proposes the new sites that meet the criteria for listing and solicits public comment on the proposal. Based on these comments and further review by EPA, the Agency determines final scores and promulgates those sites that still qualify for listing.

Contents of This Final Rule

This final rule includes 67 sites and 32 Federal facility sites from several proposed rulemakings. Of the 67 sites promulgated in this final rule, 5 were proposed in Update #2, 12 in Update #3, 11 in Update #4, 16 in Update #5 and 23 in Update #6. The 32 Federal facility sites promulgated in this rule are discussed in section IV of this rule. These sites and Federal facility sites are listed in Table 1.

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Table 1

National Priorities List,
New Final Sites (by Rank)
July 1987

Gr[1]	NPL Rank	St	Site Name	City/County	Response Category[2]	Cleanup Status[3]
3	101	IL	Parsons Casket Hardware Co.	Belvidere	D	
3	133	VA	Greenwood Chemical Co.	Newtown	R	
3	139	NY	Jones Sanitation	Hyde Park	D	
3	143	DE	Coker's Sanitation Service Lfs	Kent County	D	
3	144	MI	Rockwell International (Allegan)	Allegan	D	
4	170	IN	Waste, Inc., Landfill	Michigan City	V F S	
4	180	PA	Butler Mine Tunnel	Pittston	V R F	O
5	204	MD	Woodlawn County Landfill	Woodlawn	D	
5	224	NC	Charles Macon Lagoon & Drum Stor	Cordova	R F	O
5	238	VA	C & R Battery Co., Inc.	Chesterfield County	R	I
5	242	OH	Ormet Corp.	Hannibal	V F S	
5	246	NJ	Dayco Corp./L.E Carpenter Co.	Wharton Borough	V S	O
6	255	CA	Firestone Tire (Salinas Plant)	Salinas	S	O
6	282	PA	York County Solid Waste/Refuse Lf	Hopewell Township	V S	O
6	283	WI	Spickler Landfill	Spencer	D	
6	285	PA	Route 940 Drum Dump	Pocono Summit	D	I
6	287	PA	C & D Recycling	Foster Township	R	O
7	310	AZ	Hassayampa Landfill	Hassayampa	D	
8	362	CT	Revere Textile Prints Corp.	Sterling	D	
8	370	NH	Mottolo Pig Farm	Raymond	R F S	O
8	382	SC	Golden Strip Septic Tank Service	Simpsonville	D	
8	386	FL	Petroleum Products Corp.	Pembroke Park	V F S	O
8	391	WI	Algoma Municipal Landfill	Algoma	D	
9	410	TN	Arlington Blending & Packaging	Arlington	R F	O
9	426	DE	NCR Corp. (Millsboro Plant)	Millsboro	D	
9	443	PA	Bally Ground Water Contamination	Bally Borough	V F	
10	457	MN	LaGrand Sanitary Landfill	LaGrand Township	S	
10	475	KY	Howe Valley Landfill	Howe Valley	D	

1: Sites are placed in groups (Gr) corresponding to groups of 50 on the final NPL

2: V = Voluntary or negotiated response; F = Federal enforcement; D = Category to be determined; R = Federal and State response; S = State enforcement

3: I = Implementation activity underway, one or more operable units; O = One or more operable units completed; others may be underway; C = Implementation activity completed for all operable units

Table 1 cont'd.

National Priorities List,
New Final Sites (by Rank)
February 1987

Gr[1]	NPL Rank	St	Site Name	City/County	Response Category[2]	Cleanup Status[3]
10	480	PA	William Dick Lagoons	West Caln Township	D	
10	487	LA	Dutchtown Treatment Plant	Ascension Parish	D	
11	508	PA	Aladdin Plating	Scott Township	R	I
11	509	FL	Harris Corp. (Palm Bay Plant)	Palm Bay	V S	O
11	515	CA	Monolithic Memories	Sunnyvale	D	
11	516	CA	National Semiconductor Corp.	Santa Clara	D	
11	521	DE	Standard Chlorine of Delaware,Inc	Delaware City	D	
11	528	CA	Teledyne Semiconductor	Mountain View	D	
11	542	NY	Richardson Hill Road Lndfll/Pond	Sidney Center	D	
12	555	CA	Waste Disposal, Inc.	Santa Fe Springs	D	
12	563	NJ	Curcio Scrap Metal, Inc.	Saddle Brook Twp	D	
12	573	NC	Cape Fear Wood Preserving	Fayetteville	R	O
12	586	NJ	Cosden Chemical Coatings Corp.	Beverly	D	
12	587	MN	St. Augusta San Lndfll/Engen Dump	St. Augusta Township	D	
12	591	NY	Genzale Plating Co.	Franklin Square	D	
12	595	PA	Keystone Sanitation Landfill	Union Township	D	O
12	596	NC	Carolina Transformer Co.	Fayetteville	R F	O
12	598	PA	Bendix Flight Systems Division	Bridgewater Township	D	O
13	608	NY	Malta Rocket Fuel Area	Malta	D	
13	609	MI	Kent City Mobile Home Park	Kent City	D	
13	613	KS	Obee Road	Hutchinson	D	
13	624	MT	Montana Pole and Treating	Butte	R	I
13	629	WI	Tomah Fairgrounds	Tomah	D	
13	635	WA	Wyckoff Co./Eagle Harbor	Bainbridge Island	F	
13	647	WI	Hagen Farm	Stoughton	S	
14	654	NY	Rowe Industries Ground Water Cont	Noyack/Sag Harbor	R	O
14	655	PA	Hebelka Auto Salvage Yard	Weisenberg Township	R	
14	659	CA	Applied Materials	Santa Clara	D	O
14	675	PA	Revere Chemical Co.	Nockamixon Township	R	O
14	691	WI	Hunts Disposal Landfill	Caledonia	D	
14	693	OK	Tenth Street Dump/Junkyard	Oklahoma City	R F	O
15	702	WI	Tomah Armory	Tomah	D	
15	712	PA	Reeser's Landfill	Upper Macungie Twp	R	
15	721	VA	First Piedmont Quarry (Route 719)	Pittsylvania County	D	
15	726	IA	Shaw Avenue Dump	Charles City	D	
15	730	MN	Ritari Post & Pole	Sebeka	D	
15	735	AR	Jacksonville Municipal Landfill	Jacksonville	D	
15	736	AR	Rogers Road Municipal Landfill	Jacksonville	D	
15	738	SC	Palmetto Recycling, Inc.	Columbia	S	O

Number of New Final Sites: 67

Table 1 cont'd.

National Priorities List,
Federal Facility Sites, New Final (by Group)
July 1987

NPL Gr[1]	St	Site Name	City/County	Response Category[2]	Cleanup Status[3]
2	CA	McClellan AFB (36 Areas)	Sacramento	R	O
2	CO	Rocky Mountain Arsenal	Adams County	R	O
2	MO	Weldon Spring Quarry (USDOE/Army)	St.Charles County	R	
2	TN	Milan Army Ammunition Plant	Milan	R	I
4	GA	Robins AFB (Lndfll #4/Sludge Lag)	Houston County	R	
4	NE	Cornhusker Army Ammunition Plant	Hall County	R	O
4	NJ	Naval Air Engineering Center	Lakehurst	R	
4	UT	Hill Air Force Base (10 Areas)	Ogden	R	I
6	CA	Sacramento Army Depot	Sacramento	R	
6	IL	Sangamo/Crab Orchard NWR (USDOI)	Carterville	R	
6	ME	Brunswick Naval Air Station	Brunswick	R	
6	UT	Ogden Defense Depot	Ogden	R	
7	CA	Lawrence Livermore Lab (USDOE)	Livermore	R	O
7	CA	Sharpe Army Depot	Lathrop	R	O
7	OK	Tinker AFB (Soldier Cr/Bldg 3001)	Oklahoma City	R	
7	WA	McChord AFB (Wash Rack/Treatment)	Tacoma	R	
9	CA	Castle Air Force Base (6 Areas)	Merced	R	I
9	CA	Norton Air Force Base (Lndfll #2)	San Bernardino	R	
10	AL	Alabama Army Ammunition Plant	Childersburg	R	O
10	NJ	Fort Dix (Landfill Site)	Pemberton Township	R	
12	NY	Griffiss Air Force Base(11 Areas)	Rome	R	
12	PA	Letterkenny Army Depot (SE Area)	Chambersburg	R	O
12	VA	Defense General Supply Center	Chesterfield County	R	O
12	WA	Fort Lewis (Landfill No. 5)	Tacoma	R	
13	IL	Joliet Army Ammu Plant (Mfg Area)	Joliet	R	O
13	MN	Twin Cities Air Force(SAR Lndfll)	Minneapolis	R	
13	MO	Lake City Army Plant (NW Lagoon)	Independence	R	O
14	OR	Umatilla Army Depot (Lagoons)	Hermiston	R	

1: Sites are placed in groups (Gr) corresponding to groups of 50 on the final NPL

2: V = Voluntary or negotiated response R = Federal and State response
F = Federal enforcement S = State enforcement
D = Category to be determined

3: I = Implementation activity underway, one or more operable units
O = One or more operable units completed; others may be underway
C = Implementation activity completed for all operable units

Table 1 cont'd.

National Priorities List,
Federal Facility Sites, New Final (by Group)
July 1987

NPL Gr[1]	St	Site Name	City/County	Response Category[2]	Cleanup Status[3]
14	TX	Lone Star Army Ammunition Plant	Texarkana	R	
15	CA	Moffett Naval Air Station	Sunnyvale	R	
15	WA	Bangor Ordnance Disposal	Bremerton	R	
16	CA	Mather AFB (AC&W Disposal Site)	Sacramento	R	

Number of New Final Federal Facility Sites: 32

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Update #2, proposed on October 15, 1984 (49 FR 40320), consisted of 208 sites and 36 Federal facility sites. On February 14, 1985, two New Jersey sites, the Glen Ridge Radium Site and the Montclair/West Orange Radium Site, were added to the NPL. On September 18, 1985, the Pratt & Whitney Aircraft/United Technologies Corp. Site in West Palm Beach, Florida, was reproposed in Update #4. On June 10, 1986 (51 FR 21054), EPA added 149 Update #2 sites to the NPL, dropped 6 sites from consideration because their HRS scores were below the 28.50 cutoff, and continued to propose 50 sites pending resolution of technical or policy issues. Today's rule promulgates 5 Update #2 sites. Four sites previously identified as related to the Resource Conservation and Recovery Act (RCRA) were discovered to have no RCRA relationship and are being promulgated because technical issues have been resolved. One additional site is being promulgated because all technical issues have been resolved, leaving 45 Update #2 sites proposed.

Update #3, proposed on April 10, 1985 (50 FR 14115) consisted of 26 sites and 6 Federal facility sites. One of these sites, the Landsdowne Radiation Site, in Lansdowne, Pennsylvania, was added to the NPL on September 16, 1985 (50 FR 37630). Of the remaining 25 Update #3 sites, 7 received no comments and were added to the NPL on June 10, 1986 (51 FR 21054). Of the 18 remaining Update #3 sites, 12 sites are being added to the NPL in this final rule. The remaining 6 sites continue to be proposed because of their RCRA status.

Update #4, proposed on September 18, 1985 (50 FR 37950), consisted of 38 sites and 3 Federal facility sites. Of the 38 Update #4 sites, 13 sites received no comments and were added to the NPL on June 10, 1986 (51 FR 21054). Of the remaining 25 Update #4 sites, 11 sites are being added to the NPL in this final rule. One Update #4 site, the Silver Creek Tailing Site in Park City, Utah, was removed from the NPL on October 17, 1986 as required by section 118(p) of SARA. Of the 13 remaining sites, 10 sites remain proposed because of the in RCRA status, and 3 sites remain proposed pending resolution of technical issues.

Update #5, proposed on June 10, 1986 (51 FR 21099), consisted of 43 sites and 2 Federal facility sites. The comment period closed on August 11, 1986. Of the 43 sites, 16 sites received no comments and are being added to the NPL as part of this final rule. The remaining 27 sites, plus the two Federal facility sites, continue to be proposed pending review of comments received.

Update #6, proposed on January 22, 1987 (52 FR 2492), consisted of 63 sites and 1 Federal facility site. The comment period closed on March 23, 1986. Of the 63 sites, 23 sites received no comments and are being added to the NPL as part of this final rule. No comments were received for the Federal facility site, and so it is included as well. The other 40 sites remain proposed.

All sites that remain proposed, including Federal facility sites, will be considered for future final rules. Although these sites remain proposed, the comment periods have not been extended or reopened.

To the extent practicable, EPA considered late comments received after the close of the comment periods. For this final rule, EPA considered all comments received by June 12, 1987. Based on the comments received on the proposed rules, as well as further investigation by EPA and the States, EPA recalculated the HRS scores for individual sites where appropriate. EPA's response to site-specific public comments and explanations of any score changes made as a result of such comments are addressed in the "Support Document for the Revised National Priorities List—Final Rule #3/#4".

IV. Eligibility

CERCLA restricts EPA's authority to respond to certain categories of releases of hazardous substances, pollutants, or contaminants by expressly excluding some substances, such as petroleum, from the response program. In addition, as a matter of policy, EPA may choose not to use CERCLA to respond to certain types of releases because other authorities can be used to achieve cleanup of these releases. For example, EPA has chosen not to list sites that result from contamination associated with facilities licensed by the Nuclear Regulatory Commission (NRC), on the grounds that the NRC has full authority to require cleanup of releases from those facilities (48 FR 40661, September 8, 1983). Where such other authorities exist, and the Federal Government can undertake or enforce cleanup pursuant to a particular established program, using the NPL to determine the priority or need for response under CERCLA may not be appropriate. Therefore, EPA has chosen not to consider certain types of sites for the NPL even though CERCLA may provide authority to respond. If, however, the Agency later determines that sites not listed as a matter of policy are not being properly responded to, the Agency may consider placing them on the NPL.

The NPL eligibility policies of particular relevance to this final rule—Federal facility sites, RCRA sites, and mining waste sites—are discussed below. These policies, as well as other NPL eligibility policies, have been explained in greater detail in earlier rulemakings (51 FR 21054, June 10, 1986).

Releases From Federal Facility Sites

Prior to today's final rule, 48 Federal facility sites were proposed for the NPL. Today's final rulemaking adds 32 of these sites to the Federal section of the NPL, leaving 16 sites proposed. Of the 32, 28 sites were proposed on October 15, 1984 (49 FR 40320), 2 were proposed on April 10, 1985 (50 FR 14115), 1 site was proposed on September 18, 1985 (50 FR 37950), and 1 site was proposed on January 22, 1987 (52 FR 2492).

On June 10, 1986, the Agency announced final and proposed components of a listing policy for non-Federal, RCRA sites (51 FR 21057). The policy was intended to reflect the broadened corrective action authorities of the Hazardous and Solid Waste Amendments of 1984 (HSWA). As explained in greater detail below, the policy generally allows placing sites subject to RCRA Subtitle C corrective action authorities on the NPL if one or more of three criteria is met: (1) The owner/operator is bankrupt; (2) the owner/operator has lost authorization to operate and has exhibited probable unwillingness to perform corrective action; or (3) in cases other than loss of authorization to operate, the owner/operator has exhibited probable unwillingness to perform corrective action. When promulgating this policy, the Agency reserved for a later date the question whether this or another policy would be applicable for Federal facility sites. The Agency explained that this issue would be considered along with other issues relating to Federal facility sites (51 FR 21059, June 10, 1986).

Since that time, the Agency has considered the issue of placing Federal facility sites on the NPL. As part of its deliberations, EPA considered pertinent sections of SARA and the proposed policy regarding RCRA Subtitle C corrective action at Federal facilities with RCRA operating units (51 FR 7722, March 5, 1986). Specifically, that policy stated that: (1) RCRA section 3004(u) subjects Federal facilities to corrective action requirements to the same extent as privately-owned or privately-operated facilities and (2) the definition of a Federal facility boundary is equivalent to the property-wide definition of facility at privately-owned or privately-operated facilities. This policy was of particular interest because the Agency has determined that the vast

majority of Federal facilities that could be placed on the NPL have RCRA operating units within their boundaries.

The Agency has interpreted SARA and its legislative history to indicate that Congress clearly intended that Federal facilities be placed on the NPL and that, if appropriate, cleanup should be effected at those sites. In the floor debates, Senator Robert T. Stafford explained section 120 as follows:

> Second, the amendments require a comprehensive nationwide effort to identify and assess all Federal hazardous waste sites that warrant attention . . ., The legislation . . . requires that any Federal facility that meets the criteria applied to private sites listed on the national priorities list [NPL] must be placed on the NPL. ——— Cong. Rec. S. 14902 (daily ed., Oct. 3, 1986).

Specifically, section 120 of SARA includes requirements for the assessment of releases at Federal facilities, placement on the NPL, and if appropriate, implementation of remedial action. Sections 120(a) and 120(d) also require that Federal facility sites be evaluated for the NPL based upon the same guidelines, rules, regulations, and criteria that are applicable to other sites.

Given that Congress clearly contemplated that Federal facility sites be on the NPL, the Agency interprets these provisions of section 120 to mean that the criteria to list Federal facility sites should not be more exclusionary than the criteria to list non-Federal sites on the NPL. Key elements of the current policy for listing non-Federal sites subject to RCRA Subtitle C corrective action authorities include whether the owner or operator has filed for bankruptcy or has clearly demonstrated unwillingness to comply with applicable RCRA requirements or regulations. Since bankruptcy proceedings are not applicable to Federal agencies and unwillingness to comply with Federal laws is unlikely, application of the non-Federal NPL/RCRA policy would have the incongruous effect of listing few Federal sites. The Agency believes that this result would be inconsistent with the spirit and intent of section 120.

In order to prevent the Agency from being more exclusionary in placing Federal facility sites on the NPL, the Agency has proposed a policy for Federal facility sites that would allow such otherwise eligible Federal facility sites to be on the NPL regardless of whether RCRA Subtitle C corrective action authorities are applicable (52 FR 17991, May 13, 1987). This proposed policy does not restrict the use of either RCRA corrective action or enforcement authorities to achieve cleanup at Federal facility sites. EPA is in the process of developing regulations for corrective action under RCRA Subtitle C and for cleanup of CERCLA sites under the NCP. The cleanup goals established in those regulations will be consistent with each other, within the limits of each statute, and EPA expects that remedies selected and implemented under CERCLA will generally satisfy the RCRA Subtitle C corrective requirements, and vice versa.

In the interim period before a new policy is promulgated the important process of including Federal facility sites on the NPL should continue. As stated earlier, the Agency believes that this is clearly the intent of Congress.

Of the 32 Federal facility sites included in today's rule, 26 have areas subject to the Subtitle C corrective action authorities of RCRA within the facility boundaries but not within the HRS site itself. These 26 sites were proposed and are being promulgated according to the RCRA policy announced on September 8, 1983, which stated that non-regulated units of active facilities could be included on the NPL (48 FR 40662). In accordance with that policy, land disposal units that received hazardous waste after the effective date of the RCRA Subtitle C land disposal regulations, are not included in today's listings. This policy remains applicable to Federal facility sites until the Agency promulgates a new policy. Consistent with the policy proposed on May 13, 1987 (52 FR 1799), placing these 26 sites on the NPL will not preclude these sites from being addressed by the corrective action authorities of Subtitle C of RCRA.

The Agency believes that placing RCRA-related Federal facility sites on the NPL is consistent with the intent of Section 120 of SARA and will serve the purposes originally intended by § 300.66(e)(2) of the NCP—to advise the public of the status of Federal government cleanup efforts (50 FR 47931, November 20, 1985). In addition, listing will help other Federal agencies set priorities and focus cleanup efforts on those sites that present the most serious problems.

Of the 32 Federal facility sites in today's rule, 6 do not include any RCRA regulated units within the facility boundaries.

They are:

- Alabama Army Ammunition Plant—Childersburg, AL
- Moffett Naval Air Station—Sunnyvale, CA
- Twin Cities Air Force Reserve Base—Minneapolis, MN
- Weldon Spring Quarry (USDOE/Army)—St. Charles County, MO
- Cornhusker Army Ammunition Plant—Hall County, NE
- Naval Air Engineering Center—Lakehurst, NJ

Of the 16 Federal facility sites that remain proposed, 7 are being reproposed today in a separate **Federal Register** notice because it appears that the areas within the boundaries of these Federal facility sites evaluated for the NPL included areas subject to the corrective action authorities of Subtitle C RCRA. Although these sites are being reproposed consistent with the proposed RCRA/Federal facilities policy published in the **Federal Register** on May 13, 1987 (52 FR 17991), the Agency believes that it is appropriate to solicit additional public comment on the HRS scores for these sites. In today's separate **Federal Register** notice, the Agency also solicits comments on the proposed expansion of the Rocky Mountain Arsenal Site in Denver, Colorado. All 16 Federal facility sites remaining proposed will be considered in future final rules.

Releases From Resource Conservation and Recovery Act (RCRA) Sites

On June 10, 1986 (51 FR 21057), EPA announced components to a final policy for placing on the NPL sites subject to the corrective action authorities of Subtitle C of RCRA. At the same time, the Agency requested comment on several proposed components of the NPL/RCRA policy (51 FR 21109). Under the final policy, sites not subject to RCRA Subtitle C corrective action authorities will remain eligible for the NPL. Examples of NPL-eligible sites include:

- Facilities that ceased treating, storing, or disposing of hazardous wastes prior to November 19, 1980 (the effective date of Phase I of the Subtitle C land disposal regulations).
- Sites at which only materials exempted from the statutory or regulatory definition of solid waste or hazardous waste are managed.
- Hazardous waste generators or transporters not required to have Interim Status or a final RCRA permit.

Sites with releases that can be addressed under the RCRA Subtitle C corrective action authorities generally will not be placed on the NPL. However, RCRA sites may be listed if they meet all of the other criteria for listing (e.g., an HRS score of 28.50 or greater), and if they fall within one of the following categories:

(1) Facilities owned by persons who are bankrupt.

(2) Facilities that have lost authorization to operate, when Interim Status is terminated under RCRA section 3008(h), by permit denial under

RCRA 3005(c), or by operation of RCRA section 3005(e); and for which there are additional indications that the owner or operator will be unwilling to undertake corrective action.

(3) Sites, analyzed on a case-by-case basis, whose owners or operators have shown an unwillingness to undertake corrective action.

Currently, the Agency is considering comments on the components of the NPL/RCRA policy proposed on June 10, 1986 (51 FR 21109).

Based on the final NPL/RCRA policy described above, EPA is adding two RCRA-related sites to the NPL. The owner/operators of both facilities are bankrupt, thus meeting the eligibility requirements of the first component of the final policy. Documentation supporting the Agency's decision to list these RCRA sites is available in the docket. The two sites are:

- Parsons Casket Hardware Co.—Belvidere, IL.
- Palmetto Recycling, Inc.—Columbia, SC.

The four sites listed below were proposed on October 15, 1984 (19 FR 40320). They remained proposed because the Agency believed that they were subject to the subtitle C authorities of RCRA (51 FR 21054, June 10, 1986). Subsequent investigation revealed that these sites are not subject to the Subtitle C authorities of RCRA. These sites met the requirements of the HRS, and the Agency received no information which precluded placing the sites on the NPL. Documentation describing the RCRA status of these sites is available in the appropriate Superfund dockets.

- Applied Materials—Santa Clara, CA.
- Monolithic Memories, Inc—Sunnyvale, CA.
- National Semiconductor Corp.—Santa Clara, CA.
- Teledyne Semiconductor—Mountain View, CA.

Releases of Mining Wastes

The Agency's position, as discussed in the preambles to previous final NPL rulemakings (48 FR 40658, September 8, 1983; 49 FR 37070, September 21, 1984; 51 FR 21054, June 10, 1986) is that mining wastes may be hazardous substances, pollutants, or contaminants under CERCLA and, therefore, are eligible for the NPL. This position was affirmed in 1985 by The United States Court of Appeals for the District of Columbia Circuit (*Eagle-Picher Industries, Inc.* v. *EPA*, 759 F.2d 905, D.C. Cir. 1985). While SARA now places some limitations on adding mining sites to the NPL, the limitations do not apply to sites already on or proposed for the NPL.

EPA has already listed or proposed several mining waste sites. Eight sites were proposed for the NPL on October 15, 1984 (49 FR 40320). Another mining site, the Silver Creek Tailings site in Park City, Utah, was proposed on September 18, 1985 (50 FR 37950).

In past proposed rules, the Agency has deferred the decision to list mining sites if they might be addressed satisfactorily pursuant to the Surface Mining Control and Reclamation Act of 1977 (SMCRA). The Agency intends to continue with this approach until a final policy regarding mining sites has been adopted.

The Agency added six mining sites to the final NPL (51 FR 21054, June 10, 1986) because they were neither regulated by SMCRA nor eligible for SMCRA's Abandoned Mine Land Reclamation program.

This final rule announces decisions related to two mining sites, the Silver Bow Creek Site, and the Silver Creek Tailings Site.

The Silver Bow Creek Site, in Deer Lodge and Silver Bow Counties, Montana, was added to the NPL on September 8, 1983 (48 FR 40658). At that time, the site was characterized as approximately 28 stream miles. Subsequent investigations indicated that sources in Butte, upstream of the original Silver Bow Creek Site, are contributing to contamination in the creek. In the June 10, 1986 (51 FR 21099) proposed rule, EPA solicited comments on the appropriateness of adding the Butte area to the original Silver Bow Creek Site in order to include the upstream sources of contamination.

The Agency received comments from two interested parties. After reviewing the comments, EPA decided that they presented no new information to indicate that the site should not be expanded as proposed. Consequently, for the purposes of the NPL, the Silver Bow Creek Site now includes the Butte area. The site name has been changed to "Silver Bow Creek/Butte Area Site".

One commenter concurred with the position to include the Butte area and recommended that the site be expanded further downstream to encompass other affected areas. The commenter has not, however, provided data to support the further expansion of the site downstream. The Agency believes that the data currently available indicate that the site should be limited to the Silver Bow-Creek/Butte Area. However, if additional studies suggest that the site should be further expanded, the Agency will consider such a decision at that time.

The second commenter agreed that the Butte area should be combined with the existing Silver Bow Creek site, but disagreed that the two areas should be studied under one comprehensive RI/FS. The commenter stated that by combining the two areas, the overall complexity of the combined site is tremendously expanded and would require a regional environmental study rather than an investigation of a single waste site. The commenter disagreed with EPA's contention that the addition of the Butte area would not greatly expand the Silver Bow Creek Site.

In response, information provided by the commenter indicates that the Butte area contributes only 5% to 10% of the total site area, which is consistent with EPA's original understanding. Although the addition of the Butte area to the original Silver Bow Creek Site is likely to increase the complexity of the combined site somewhat, the fact remains that the Butte area is a source of contamination for the affected downstream areas. The Agency will review the appropriateness of various study options to determine the best approach to define the nature and extent of contamination and to develop options for remedying the problems at the site.

In addition, the commenter stated that the Agency should exclude the operating mine in Butte from CERCLA consideration. The commenter stated that the mine is currently operated and bonded under the Montana Hard Rock Mining Act, which, according to the commenter, includes regulations which address many, if not all of the same environmental issues covered by CERCLA.

In response, no provisions of CERCLA preclude EPA from exercising the authority to take response action under CERCLA in mining areas covered by state actions under the Montana Metal Mine Reclamation Act (Montana Hard Rock Mining Act). EPA intends to coordinate closely with the Montana Department of State Lands in exercising CERCLA authority in the State-permitted mining areas in order to avoid duplication of effort or inconsistent results.

A decision has also been reached on the Silver Creek Tailings Site, Park City, Utah. This site, proposed for listing on September 18, 1985 (50 FR 37950), was evaluated using information provided by the State of Utah. The Agency has determined that some of the information is not appropriate to substantiate an HRS score of 28.50 or above. In similar situations in the past, such sites have continued in proposed status until EPA could determine if the appropriate data could be obtained to substantiate an HRS score of 28.50 or above (see 48 FR

40658, September 8, 1983; 49 FR 37070, September 21, 1984; and 51 FR 21054, June 10, 1986).

In the case of Silver Creek Tailings Site, the Agency is in the process of collecting additional data to determine whether or not the site should be proposed to the NPL. However, section 118(p) of SARA specified that the site be removed from the NPL unless the Agency determines that site-specific data not used to propose this site indicate that the site meets the requirements of the HRS or any revised Hazard ranking system.

Consequently, the Silver Creek Tailings Site was removed from proposed status on October 17, 1986, the date SARA was enacted. This action does not indicate a change of the existing policy to continue to propose sites until the appropriate decision can be made.

V. Disposition of all Proposed Sites/ Federal Facility Sites

To date, EPA has proposed six major updates to the NPL (Table 2).

TABLE 2.—SUMMARY OF NPL PROPOSALS

Update No.	Date/Federal Register citation	Number of sites/ Federal facility sites	
		Proposed	Remaining proposed
1	9/8/83, 48 FR 40674	133/0	2/0
2	10/15/84, 49 FR 40320	208/36	45/8
3	4/10/85, 50 FR 14115	26/6	6/4
4	9/18/85, 50 FR 37950	38/3	13/2
5	6/10/86, 51 FR 21099	43/2	27/2
6	1/22/87, 52 FR 2492	63/1	40/0
	Total	511/48	133/16

Of the 133 sites and 16 Federal facility sites in proposed status, 66 sites and 14 Federal facility sites are from proposed Update #1 through 4 and continue to be proposed pending resolution of issues involving the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), RCRA, and mining wastes (Table 3). These policies are explained in detail in the June 10, 1986 final rule (51 FR 21054). The remaining 67 sites, and 2 Federal facility sites from proposed Updates #5 and #6, continue to be proposed because EPA has not completed review of comments. They will be considered in future final rules.

The formal comment periods have closed for all proposed rules. Proposed Updates #1 through 4 sites are listed first in Table 3 according to categories representing policy and technical issues. Update #5 and Update #16 sites are listed at the end of Table 3.

TABLE 3.—PROPOSED SITES/FEDERAL FACILITY SITES

Category/site name	Location	Date of proposal
UPDATES #1-4:		
Pesticide-Application:		
Kunia Wells I	Oahu, HI	10/15/84
Kunia Wells II	Oahu, HI	10/15/84
Mililani Wells	Oahu, HI	10/15/84
Waiawa Shaft	Oahu, HI	10/15/84
Waipahu Wells	Oahu, HI	10/15/84
Waipio Heights Wells II.	Oahu, HI	10/15/84
RCRA (*Not previously identified as a RCRA site):		
Motorola, Inc. (52nd Street Plant).	Phoenix, AZ.	10/15/84
Fairchild Camera & Instrument Corp. (Mountain View Plant).	Mountain View, CA.	10/15/84
Fairchild Camera & Instrument Corp. (South San Jose Plant).	South San Jose, CA.	10/15/84
FMC Corp. (Fresno Plant).	Fresno, CA.	10/15/84
Hewlett Packard.	Palo Alto, CA.	10/15/84
IBM Corp. (San Jose Plant).	San Jose, CA.	10/15/84
Lorentz Barrel & Drum Co.	San Jose, CA.	10/15/84
Marley Cooling Tower Co.	Stockton, CA.	10/15/84
Rhone-Poulenc, Inc./Zoecon Corp.	East Palo Alto, CA.	10/15/84
Signetics, Inc.	Sunnyvale, CA.	10/15/84
Southern Pacific Transportation Co.	Roseville, CA.	10/15/84
Van Waters & Rogers, Inc.	San Jose, CA.	10/15/84
Martin Marietta (Denver Aerospace).	Waterton, CO.	09/18/85
City Industries, Inc.	Orlando, FL.	10/15/84
Pratt & Whitney Aircraft/ United * Technologies Corp.	West Palm Beach, FL.	09/18/85
Olin Corp (Areas 1, 2, & 4).	Augusta, GA.	09/08/83
Sheffield (U.S. Ecology, Inc.).	Sheffield, IL.	10/15/84
Firestone Industrial Products Co.	Noblesville, IN.	09/18/85
Prestolite Battery Division.	Vincennes, IN.	09/18/85
A.Y. McDonald Industries, Inc. *	Dubuque, IA.	09/18/85
Chemplex Co.	Clinton/ Camanche, IA.	10/15/84
Frit Industries (Humboldt Plant).	Humboldt, IA.	04/10/85
John Deere (Dubuque Works).	Dubuque, IA.	09/18/85
U.S. Nameplate Co.	Mount Vernon, IA.	10/15/84
National Industrial Environmental Services.	Furley, KS.	10/15/84
Union Chemical Co., Inc.	South Hope, ME.	04/10/85
E.I. DuPont De Nemours & Co., Inc. (Montague Plant).	Montague, MI.	10/15/84
Hooker (Montague Plant).	Montague, MI.	09/18/85
Kysor Industrial Corp.	Cadillac, MI.	09/18/85
Lacks Industries, Inc.	Grand Rapids, MI.	10/15/84
Findett Corp	St. Charles, MO.	10/15/84
Conservation Chemical Co.	Kansas City, MO.	04/10/85
Burlington Northern Railroad (Somers Tie-Treating Plant).	Somers, MT.	10/15/84
Lindsay Manufacturing Co.	Lindsay, NE.	10/15/84

TABLE 3.—PROPOSED SITES/FEDERAL FACILITY SITES—Continued

Category/site name	Location	Date of proposal
Monroe Auto Equipment Co.	Cozad, NE	09/18/85
Matlack, Inc.	Woolwich Township, NJ.	09/18/85
National Starch & Chemical Corp. *.	Salisbury, NC.	04/10/85
General Electric Co. (Coshocton Plant).	Coshocton, OH.	10/15/84
Rohm & Haas Co. Landfill *.	Bristol Township, PA.	04/10/85
Culpeper Wood Preservers, Inc.	Culpeper, VA.	10/15/84
IBM Corp. (Manassas Plant Spill).	Manassas, VA.	10/15/84
Love's Container Service Landfill.	Buckingham County, VA.	04/10/85
Mobay Chemical Corp. (New Martinsville Plant).	New Martinsville, WV.	10/15/84
Mining Wastes:		
Olson/Neihart Reservoir.	Wasatch County, UT.	10/15/84
Sharon Steel Corp. (Midvale Tailings).	Midvale, UT.	10/15/84
Technical Issues:		
Arkwood Inc.	Omaha, AR.	09/18/85
J.H. Baxter Co	Weed, CA	10/15/84
Montrose Chemical Corp.	Torrance, CA.	10/15/84
Montco Research Products, Inc.	Hollister, FL.	10/15/84
H.O.D. Landfill	Antioch, IL	09/18/85
Kerr/McGee (Kress Creek/West Branch of DuPage River).	Dupage County, IL.	10/15/84
Kerr-McGee (Reed-Keppler Park).	West Chicago, IL.	10/15/84
Kerr-McGee (Residential Areas).	West Chicago/ DuPage County, IL.	10/15/84

TABLE 3.—PROPOSED SITES/FEDERAL FACILITY SITES—Continued

Category/site name	Location	Date of proposal
Kerr-McGee (Sewage Treatment Plant.	West Chicago, IL.	10/15/84
Michigan Disposal Service (Cork Street Landfill).	Kalamazoo, MI.	10/15/84
Quail Run Mobile Manor.	Gray Summit, MO.	09/08/83
Lodi Municipal Well.	Lodi, NJ	10/15/84
Warwick Landfill.	Warwick, NY.	09/18/85
Brio Refining Co., Inc.	Friendswood, TX.	10/15/84
Sol Lynn/ Industrial Transformers.	Houston, TX.	10/15/84
Federal Facility Sites:		
Anniston Army Depot (Southeast Industrial Area).	Anniston, AL.	10/15/84
Rocky Flats Plant (USDOE).	Golden, CO.	10/15/84
Dover Air Force Base.	Dover, DE	10/15/84
Joliet Army Ammunition Plant (Load-Assembly-Packing Area).	Joliet, IL	04/10/85
Savanna Army Depot Activity.	Savanna, IL.	10/15/84
Louisiana Army Ammunition Plant.	Doylene, LA.	10/15/84
Aberdeen Proving Ground (Edgewood Area).	Edgewood, MD.	04/10/85
Aberdeen Proving Ground (Michaelsville Landfill).	Aberdeen, MD.	04/10/85
Naval Weapons Station Earle (Site A).	Colts Neck, NJ.	10/15/84
Letterkenny Army Ammunition (Property Disposal Office Area).	Franklin County, PA.	04/10/85
Air Force Plant #4 (General Dynamics).	Fort Worth, TX.	10/15/84

TABLE 3.—PROPOSED SITES/FEDERAL FACILITY SITES—Continued

Category/site name	Location	Date of proposal
Tooele Army Depot (North Area).	Tooele, UT	10/15/84
Naval Air Station Whidbey Island (Ault Field).	Whidbey Island, WA.	09/18/85
Naval Air Station Whidley Island (Seaplane).	Whidley Island, WA.	09/18/85
UPDATE #5 (Proposed 06/ 10/86):		
Apache Powder Co.	Benson, AZ.	
Mesa Area Ground Water Contamination.	Mesa, AZ	
Tyler Refrigeration Pit.	Smyrna, DE.	
Piper Aircraft Corp./Vero Beach Water & Sewer Department.	Vero Beach, FL.	
Sydney Mine Sludge Ponds.	Brandon, FL.	
Tri-County Landfill Co./ Waste Management of Illinois, Inc.	South Elgin, IL.	
Douglass Road/ Uniroyal, Inc., Landfill.	Mishawaka, IN.	
Southside Sanitary Landfill.	Indianapolis, IN.	
Red Oak City Landfill.	Red Oak, IA.	
Combustion, Inc.	Denham Springs, LA.	
American Anodco, Inc.	Ionia, MI	
Folkertsma Refuse.	Grand Rapids, MI.	
J&L Landfill	Rochester Hills, MI.	
BioClinical Laboratories, Inc.	Bohemia, NY.	
Conklin Dumps	Conklin, NY.	
TRW, Inc. (Minerva Plant).	Minerva, OH.	

TABLE 3.—PROPOSED SITES/FEDERAL FACILITY SITES—Continued

Category/site name	Location	Date of proposal
CryoChem, Inc.	Worman, PA.	
Delta Quarries & Disposal, Inc./Stotler Landfill.	Antis/ Logan Townships, PA.	
Eastern Diversified Metals.	Hometown, PA.	
Medley Farm Drum Dump.	Gaffney, SC.	
Rochester Property.	Travelers Rest, SC.	
Sheridan Disposal Services.	Hempstead, TX.	
Midvale Slag	Midvale, UT.	
Atlantic Wood Industries, Inc.	Portsmouth, VA.	
Hidden Valley Landfill (Thun Field).	Pierce County, WA.	
Old Inland Pit	Spokane, WA.	
Tomah Municipal Sanitary Landfill.	Tomah, WI	
Federal (Proposed 06/10/86):		
Naval Air Development Center (8 Waste Areas).	Warminster Township, PA.	
Naval Undersea Warfare Engineering Station (4 Waste Areas).	Keyport, WA.	
UPDATE #6 Proposed 01/22/87) ** RCRA Sites):		
Southern California Edison Co. (Visalia Poleyard).	Visalia, CA	
Watkins-Johnson Co. (Stewart Division Plant).	Scotts Valley, CA.	
Nutmeg Valley Road.	Wolcott, CT.	
Chem-Solv, Inc. **.	Cheswold, DE.	
Dover Gas Light Co.	Dover, DE	

TABLE 3.—PROPOSED SITES/FEDERAL FACILITY SITES—Continued

Category/site name	Location	Date of proposal
E.I. DuPont de Nemours & Co., Inc. (Newport Pigment Plant Landfill).	Newport, DE.	
Pigeon Point Landfill.	New Castle, DE.	
Diamond Shamrock Corp. Landfill.	Cedartown, GA.	
Mathis Brothers Landfill (South Marble Top Road).	Kensington, GA.	
Stauffer Chemical Co. (Chicago Heights Plant).	Chicago Heights, IL.	
McCarty's Bald Knob Landfill.	Mt. Vernon, IN.	
Barrels, Inc.	Lansing, MI.	
Ford Motor Co. (Sludge Lagoon).	Ypsilanti, MI.	
Metal Working Shop.	Lake Ann, MI.	
Kem-Pest Laboratories.	Cape Girardeau, MO.	
Wheeling Disposal Service Co., Inc., Landfill.	Amazonia, MO.	
Horstmann's Dump.	East Hanover, NJ.	
Islip Municipal Sanitary Landfill.	Islip, NY	
Aberdeen Pesticide Dumps.	Aberdeen, NC.	
Allied Plating, Inc. **.	Porland, OR.	
American Electonics Laboratories, Inc.	Montgomeryville, PA.	
Ametek, Inc. (Hunter Spring Division).	Hatfield, PA.	
Avco Lycoming (Williamsport Division).	Williamsport, PA.	
Commodore Semiconductor Group.	Lower Providence Township, PA.	

TABLE 3.—PROPOSED SITES/FEDERAL FACILITY SITES—Continued

Category/site name	Location	Date of proposal
Gentle Cleaners Inc./Granite Knitting Mills, Inc.	Souderton, PA.	
Hellertown Manufacturing Co.	Hellertown, PA.	
J.W. Rex Co./ Allied Paint Manufacturing Co., Inc./ Keystone Hydraulics.	Lansdale, PA.	
Novak Sanitary Landfill.	South Whitehall Township, PA.	
Paoli Rail Yards.	Paoli, PA	
River Road Landfill (Waste Management, Inc.).	Hermitage, PA.	
Salford Quarry	Salford Township, PA.	
Spra-Fin, Inc.	North Wales, PA.	
Transicoil, Inc.	Worcester, PA.	
Sangamo-Weston, Inc./ Twelve Mile Creek/Lake Hartwell PCB Contamination.	Pickens, SC.	
Mallory Capacitor Co.	Waynesboro, TN.	
Wasatch Chemical Co. (Lot 6).	Salt Lake City, UT.	
Dixie Caverns County Landfill.	Salem, VA	
H & H, Inc., Burn Pit.	Farrington, VA.	
Rentokil, Inc. (Virginia Wood Preserving Division).	Richmond, VA.	
Saunders Supply Co.	Chuckatuck, VA.	

VI. Disposition of Sites in Today Final Rule

Final Sites With HRS Score Changes

For 15 of the 67 sites and 32 Federal facility sites promulgted today, EPA has revised the HRS scores based on its

review of comments and additional information (Table 4). Some of the changes have placed the sites in different groups of 50 sites.

TABLE 4.—SITES WITH HRS SCORE CHANGES

State and site name	Location	HRS score	
		Proposed	Final
CA Monolithic Memories, Inc	Sunnyvale	42.24	35.57
CA Teledyne Semiconductor	Mountain View	42.24	35.35
IL Sangamo Electric/Crab Orchard National Wildlife Refuge (USDOI).	Carterville	59.80	43.70
MI Rockwell International Corp. (Allegan Plant).	Allegan	52.29	52.15
NJ Dayco Corp./L.E. Carpenter Co	Warton Borough	48.12	46.13
NJ Naval Air Engineering Center (NAEC).	Lakehurst	49.48	50.53
OH Ormet Corp	Hannibal	52.29	46.44
OR Umatilla Army Depot (Lagoons)	Hermiston	31.74	31.31
PA York County Solid Waste and Refuse Authority Landfill.	Hopewell Township	40.72	44.27
VA Defense General Supply Center	Chesterfield County	33.86	33.85
VA First Piedmont Corp. Rock Quarry (Route 719).	Pittsylvania County	37.51	30.16
WA Bangor Ordnance Disposal	Bremerton	29.82	30.42
WA Fort Lewis (Landfill No. 5)	Tacoma	42.78	33.79
WA McChord Air Force Base (Wash Rack/Treatment Area).	Tacoma	43.24	42.24
WI Hagen Farm	Stoughton	38.07	32.06

A summary of the comments received on these sites and EPA's responses are recorded in the "Support Document for the Revised National Priorities List—Final Rule #3/#4."

Name Revisions

The names of three sites and one Federal facility site promulgated in this final rule have been changed in response to information received during the comment period (Table 5). The changes are intended to reflect more accurately the location or nature of the problems at the site.

TABLE 5.—CHANGES IN SITE NAMES

Name on proposed NPL	Name on final NPL
Harris Corp./General Development Utilities, Palm Bay, FL.	Harris Corp. (Palm Bay Plant).
Robins Air Force Base Houston County, GA.	Robins Air Force Base (Landfill #4/ Sludge Lagoon).
St. Augusta Sanitary Landfill/St. Cloud Dump, St. Augusta Township, MN.	St. Augusta Sanitary Landfill/Engen Dump.
First Piedmont Corp. Rock Quarry, Pittsylvania County, VA.	First Piedmont Corp. Rock Quarry (Route 719).

VII. Contents of the NPL

The NPL, with the Federal facility sites in a separate section, appears at the end of this final rule as Appendix B to the NCP. The 770 sites on the NPL are arranged according to their scores on the HRS. The NPL is presented in groups of 50 sites to emphasize that minor differences in HRS scores do not necessarily represent significantly different levels of risk. Except for the first group, the score range within the groups, as indicated in the list, is less than 4 points. EPA considers the sites within a group to have approximately the same priority for response actions. For convenience, the sites are numbered.

The 32 Federal facility sites in the separate Federal section of the NPL are arranged in groups corresponding to the groups in the NPL.

Each entry on the new NPL and Federal section contains the name of the facility and the State and city or county in which it is located.

For informational purposes, each entry is accompanied by one or more notations reflecting the status of response and cleanup activities at these sites at the time this list was prepared. Because this information may change periodically, these notations may become outdated.

Five response categories are used to designate the type of response underway. One or more categories may apply to each site. The categories are: Federal and/or State response (R), Federal enforcement (F), State Enforcement (S), (4) Voluntary or negotiated response (V), and Category to be determined (D).

EPA indicates the status of significant Superfund-financed or private party cleanup activities underway or completed at proposed or final NPL sites. Three cleanup status codes are used. Only one is necessary to designate the status of actual cleanup activity at each site since the codes are mutually exclusive. The codes are: Implementation activities are underway for one or more operable units (I), Implementation activities are completed for one or more (but not all) operable units (O), and Implementation activities are completed for all operable units (C).

These categories and codes are explained in detail in earlier rulemakings, the most recent of which was June 10, 1986 (51 FR 21075).

The 67 new sites added to the NPL (Table 1) are incorporated into the NPL in order of their HRS score, except where EPA modified the order to reflect top priorities designated by the States, as discussed in previous rulemakings, the most recent of which was June 10, 1986 (51 FR 21075). The Lansdowne Radiation Site in Lansdowne, Pennsylvania, has an HRS score less than 28.50, and appears at the end of the list. This site was placed on the NPL because it met the requirements of § 300.66(b)(4) of the NCP as explained in Section III of this rule.

VIII. Regulatory Impact Analysis

The costs of cleanup actions that may be taken at sites are not directly attributable to listing on the NPL, as explained below. Therefore, the Agency has determined that this rulemaking is not a "major" regulation under Executive Order 12291. EPA has conducted a preliminary analysis of economic implications of today's amendment to the NCP. EPA believes that the kinds of economic effects associated with this revision are generally similar to those effects identified in the regulatory impact analysis (RIA) prepared in 1982 for the revisions to the NCP pursuant to section 105 of CERCLA and the economic analysis prepared when the amendments to the NCP were proposed (50 FR 5882, February 12, 1985). The Agency believes the anticipated economic effects related to adding 99 sites to the NPL can be characterized in terms of the conclusions of the earlier regulatory impact analysis and the most recent economic analysis.

Costs

EPA has determined that this rulemaking is not a "major" regulation under Executive Order 12291 because inclusion of a site on the NPL does not itself impose any costs. It does not establish that EPA will necessarily undertake remedial action, nor does it require any action by a private party or determine its liability for site response costs. Costs that arise out of site responses result from site-by-site decisions about what actions to take, not directly from the act of listing itself. Nonetheless, it is useful to consider the costs associated with responding to all sites included in this rulemaking. This action was submitted to the Office of Management and Budget for review. The major events that follow the proposed listing of a site on the NPL are a search for responsible parties and a remedial investigation/feasibility study (RI/FS) to determine if remedial actions will be undertaken at a site. Design and construction of the selected remedial alternative follow completion of the RI/FS, and operation and maintenance (O&M) activities may continue after construction has been completed.

Costs associated with responsible party searches are initially borne by EPA. Responsible parties may bear some or all the costs of the RI/FS, remedial design and construction, and O&M, or the costs may be shared by EPA and the States.

The State cost share for site cleanup activities has been amended by section 104 of SARA. For privately-owned sites, as well as at publicly-owned but not publicly-operated sites, EPA will pay for 100% of the costs of the RI/FS and remedial planning, and 90% of the costs associated with remedial action. The State will be responsible for 10% of the remedial action. For publicly-operated sites, the State cost share is at least 50% of all response expenditures at the site, including the RI/FS and remedial design and construction of the remedial action selected. After the remedy is built, costs fall into two categories:

- For restoration of ground water and surface water, EPA will share in startup costs according to the criteria in the previous paragraph for 10 years or until a sufficient level of protectiveness is achieved before the end of 10 years.
- For other cleanups, EPA will share for up to 1 year the cost of that portion of response needed to assure that a remedy is operational and functional. After that, the State assumes full responsibilities for O&M.

In previous NPL rulemakings, the Agency estimated the costs associated with these activities (RI/FS, remedial design, remedial action, and O&M) on an average per site and total cost basis. At this time, however, there is insufficient information to determine what these costs will be as a result of the new requirements under SARA. Until such information is available, the Agency will provide costs estimates based on CERCLA prior to enactment of SARA; these estimates are presented below. EPA is unable to predict what portions of the total costs will be borne by responsible parties, since the distribution of costs depends on the extent of voluntary and negotiated response and the success of any cost-recovery actions.

Cost category	Cost per site [1]
RI/FS	$875,000
Remedial design	850,000
Remedial action	8,600,000 [2]
Net present value of O&M (over 30 years) [3]	3,770,000 [2]

[1] 1986 U.S. dollars.
[2] Includes State cost share.
[3] Assumes cost of O&M over 30 years, $400,000 for the first year, and 10% discount rate.
Source: Hazardous Site Control Division, Office of Emergency and Remedial Response, U.S. EPA.

Costs of States associated with today's amendment arise from the required State cost-share of: (1) 10% of remedial action and 10% of up to 1 year of costs to ensure the remedy is operational and functional at privately-owned sites, and sites which are publicly-owned but not publicly-operated; and (2) at least 50% of the RI/RS, remedial design, remedial action, removal, if any, and first-year startup costs at publicly-operated sites. States will assume all of the cost for O&M after EPA's period of participation. Using the assumptions developed in the 1982 RIA for the NCP, EPA has assumed that 90% of the 67 non-Federal sites added to the NPL in this amendment will be privately-owned and 10% will be State- or locally-operated. Therefore, using the budget projections presented above, the costs to States of undertaking Federal remedial actions at all 67 non-Federal sites would be approximately $2 billion, of which approximately $200 million is attributable to the State O&M cost. As a result of the changes to State cost-share under SARA, however, the Agency believes that State O&M costs may actually decrease. When new cost information is available, it will be presented in future rulemakings.

Listing a hazardous waste site on the final NPL does not itself cause firms responsible for the site to bear costs. Nonetheless, a listing may induce firms to clean up the sites voluntarily, or it may act as a potential trigger for subsequent enforcement or cost-recovery actions. Such actions may impose costs on firms, but the decisions to take such actions are discretionary, and made on a case-by-case basis. Consequently, precise estimates of these effects cannot be made. EPA does not believe that every site will be cleaned up by a responsible party. EPA cannot project at this time which firms or industry sectors will bear specific portions of the response costs, but the Agency considers: the volume and nature of the waste at the sites; the strength of the evidence linking the wastes at the site to the parties; the parties' ability to pay; and other factors when deciding whether and how to proceed against potentially responsible parties.

Economy-wide effects of this amendment are aggregations of effects on firms and State and local governments. Although effects could be felt by some individual firms and States, the total impact of this revision on output, prices, and employment is expected to be negligible at the national level, as was the case in the 1982 RIA.

Benefits

The real benefits associated with today's amendment to list additional sites on the NPL are increased health and environmental protection as a result of increased public awareness of potential hazards. In addition to the potential for more Federally-financed remedial actions, expansion of the NPL could accelerate privately-financed, voluntary cleanup efforts to avoid potential adverse publicity, private lawsuits, and/or Federal or State enforcement action. Listing sites as national priority targets may also give States increased support for funding responses at particular sites.

As a result of the additional NPL remedies, there will be lower human exposure to high-risk chemicals, and higher-quality surface water, ground water, soil, and air. The magnitude of these benefits is expected to be significant, although difficult to estimate in advance of completing the RI/FS at these sites.

Associated with the costs are significant potential benefits and cost offsets. The distributional costs to firms of financing NPL remedies have corresponding "benefits" in that funds expended for a response generate employment, directly or indirectly (through purchased materials).

IX. Regulatory Flexibility Act Analysis

The Regulatory Flexibility Act of 1980 requires EPA to review the impacts of this action on small entities, or certify that the action will not have a significant impact on a substantial number of small entities. By small entities, the Act refers to small businesses, small government jurisdictions, and nonprofit organizations.

While modifications to the NPL are considered revisions to the NCP, they are not typical regulatory changes since the revisions do not automatically impose costs. The placing of sites on the NPL does not in itself require any action of any private party, nor does it determine the liability of any party for the cost of cleanup at the site. Further, no identifiable groups are affected as a whole. As a consequence, it is hard to predict impacts on any group. A site's inclusion on the NPL could increase the likelihood that adverse impacts to responsible parties (in the form of cleanup costs) will occur, but EPA cannot identify the potentially affected business at this time nor estimate the number of small businesses that might be affected.

The Agency does expect that certain industries and firms within industries that have caused a proportionately high percentage of waste site problems could be significantly affected by CERCLA actions. However, EPA does not expect the impacts from the listing of these 67 sites and 32 Federal facility sites to have a significant economic impact on a substantial number of small businesses.

In any case, economic impacts would only occur through enforcement and cost-recovery actions, which are taken at EPA's discretion on a site-by-site basis. EPA considers many factors when determining what enforcement actions to take, including not only the firm's contribution to the problem, but also the firm's ability to pay.

The impacts (from cost recovery) on small governments and nonprofit organizations would be determined on a smiliar case-by-case basis.

List of Subjects in 40 CFR Part 300

Air pollution control, Chemicals, Hazardous materials, Intergovernmental relations, Natural resources, Oil pollution, Reporting and recordkeeping requirements, Superfund, Waste treatment and disposal, Water pollution control, Water supply.

40 CFR Part 300 is amended as follows:

PART 300—[AMENDED]

1. The authority citation for Part 300 continues to read as follows:

Authority: 42 U.S.C. 9605(8)(B)/CERCLA 105(8)(B).

2. Appendix B of Part 300 is revised to read as set forth below.

Dated: July 16, 1987.

Jack W. McGraw,

Deputy Assistant Administrator, Office of Solid Waste and Emergency Response.

BILLING CODE 6560-50-M

Appendix B

National Priorities List (by Rank)
July 1987

NPL Rank	EPA Reg	St	Site Name	City/County	Response Category[1]	Cleanup Status[2]
Group 1 (HRS Scores 75.60 - 58.41)						
1	02	NJ	Lipari Landfill	Pitman	R F	O
2	03	DE	Tybouts Corner Landfill *	New Castle County	V R F	O
3	03	PA	Bruin Lagoon	Bruin Borough	R F	O
4	02	NJ	Helen Kramer Landfill	Mantua Township	R S	
5	01	MA	Industri-Plex	Woburn	V R	O
6	02	NJ	Price Landfill *	Pleasantville	R F	O
7	02	NY	Pollution Abatement Services *	Oswego	R	O
8	07	IA	LaBounty Site	Charles City	V F	O
9	03	DE	Army Creek Landfill	New Castle County	V R F	O
10	02	NJ	CPS/Madison Industries	Old Bridge Township	D	
11	01	MA	Nyanza Chemical Waste Dump	Ashland	R	
12	02	NJ	GEMS Landfill	Gloucester Township	R S	I
13	05	MI	Berlin & Farro	Swartz Creek	V R F S	O
14	01	MA	Baird & McGuire	Holbrook	R F	O
15	02	NJ	Lone Pine Landfill	Freehold Township	V R F	
16	01	NH	Somersworth Sanitary Landfill	Somersworth	R	
17	05	MN	FMC Corp. (Fridley Plant)	Fridley	V	O
18	06	AR	Vertac, Inc.	Jacksonville	V F	O
19	01	NH	Keefe Environmental Services	Epping	R S	O
20	08	MT	Silver Bow Creek/Butte Area	Sil Bow/Deer Lodge	R	
21	08	SD	Whitewood Creek *	Whitewood	V	
22	06	TX	French, Ltd.	Crosby	V R F	O
23	01	NH	Sylvester *	Nashua	R S	O
24	05	MI	Liquid Disposal, Inc.	Utica	R	O
25	03	PA	Tysons Dump	Upper Merion Twp	V R F	O
26	03	PA	McAdoo Associates *	McAdoo Borough	R	O
27	06	TX	Motco, Inc. *	La Marque	V R F	O
28	05	OH	Arcanum Iron & Metal	Darke County	R F	
29	08	MT	East Helena Site	East Helena	V F	
30	06	TX	Sikes Disposal Pits	Crosby	R	O
31	04	AL	Triana/Tennessee River	Limestone/Morgan	V R F	O
32	09	CA	Stringfellow *	Glen Avon Heights	R F	O
33	01	ME	McKin Co.	Gray	R F S	O
34	06	TX	Crystal Chemical Co.	Houston	R F	O
35	02	NJ	Bridgeport Rental & Oil Services	Bridgeport	R	O
36	08	CO	Sand Creek Industrial	Commerce City	R F	O
37	06	TX	Geneva Industries/Fuhrmann Energy	Houston	R F	O
38	01	MA	W. R. Grace & Co. (Acton Plant)	Acton	V F S	O
39	05	MN	New Brighton/Arden Hills	New Brighton	R	O
40	04	FL	Schuylkill Metals Corp.	Plant City	D	O
41	02	NJ	Vineland Chemical Co., Inc.	Vineland	V R	
42	02	NJ	Burnt Fly Bog	Marlboro Township	R S	O
43	05	MN	Reilly Tar (St. Louis Park Plant) *	St. Louis Park	R F S	O
44	02	NY	Old Bethpage Landfill	Oyster Bay	V S	
45	04	FL	Reeves SE Galvanizing Corp.	Tampa	D	O
46	02	NJ	Shieldalloy Corp.	Newfield Borough	V S	
47	08	MT	Anaconda Co. Smelter	Anaconda	V F	I
48	10	WA	Western Processing Co., Inc.	Kent	V R F S	O
49	05	WI	Omega Hills North Landfill	Germantown	S	
50	04	FL	American Creosote (Pensacola Plt)	Pensacola	R F	O

Appendix B cont'd.

National Priorities List (by Rank)
July 1987

NPL Rank	EPA Reg	St	Site Name	City/County	Response Category[1]	Cleanup Status[2]
Group 2 (HRS Scores 58.30 - 55.71, except for State top priority sites)						
51	02	NJ	Caldwell Trucking Co.	Fairfield	R S	
52	02	NY	GE Moreau	South Glen Falls	V F S	O
53	04	FL	Peak Oil Co./Bay Drum Co.	Tampa	R	
54	05	OH	United Scrap Lead Co., Inc.	Troy	R	O
55	06	OK	Tar Creek (Ottawa County)	Ottawa County	R	C
56	07	KS	Cherokee County	Cherokee County	R	I
57	05	IN	Seymour Recycling Corp. *	Seymour	V R F	O
58	02	NJ	Brick Township Landfill	Brick Township	V S	
59	05	MI	Northernaire Plating	Cadillac	R	O
60	10	WA	Frontier Hard Chrome, Inc.	Vancouver	R	
61	05	WI	Janesville Old Landfill	Janesville	F	
62	04	SC	Independent Nail Co.	Beaufort	R	
63	04	SC	Kalama Specialty Chemicals	Beaufort	F S	
64	05	WI	Janesville Ash Beds	Janesville	F	
65	04	FL	Davie Landfill	Davie	V R F S	I
66	05	OH	Miami County Incinerator	Troy	F	
67	04	FL	Gold Coast Oil Corp.	Miami	R	O
68	05	IN	International Minerals (E. Plant)	Terre Haute	D	
69	05	WI	Wheeler Pit	La Prairie Township	S	
70	09	AZ	Tucson Intl Airport Area	Tucson	R	
71	09	CA	Operating Industries, Inc. Lndfll	Monterey Park	F	
72	02	NY	Wide Beach Development	Brant	R	O
73	09	CA	Iron Mountain Mine	Redding	R	
74	02	NJ	Scientific Chemical Processing	Carlstadt	V F S	O
75	08	CO	California Gulch	Leadville	F	
76	02	NJ	D'Imperio Property	Hamilton Township	R	I
77	05	MN	Oakdale Dump	Oakdale	V	O
78	05	MI	Gratiot County Landfill *	St. Louis	V R F S	O
79	01	RI	Picillo Farm *	Coventry	R F S	O
80	01	MA	New Bedford Site *	New Bedford	V R F S	O
81	06	LA	Old Inger Oil Refinery *	Darrow	R	O
82	05	OH	Chem-Dyne *	Hamilton	V R F S	O
83	04	SC	SCRDI Bluff Road *	Columbia	V R F	O
84	01	CT	Laurel Park, Inc. *	Naugatuck Borough	V S	
85	08	CO	Marshall Landfill *	Boulder County	F	O
86	05	IL	Outboard Marine Corp. *	Waukegan	R F	
87	06	NM	South Valley *	Albuquerque	R F	I
88	01	VT	Pine Street Canal *	Burlington	D	
89	03	WV	West Virginia Ordnance *	Point Pleasant	V F	O
90	07	MO	Ellisville Site *	Ellisville	R F S	O
91	08	ND	Arsenic Trioxide Site *	Southeastern ND	R	I
92	03	VA	Matthews Electroplating *	Roanoke County	R	O
93	07	IA	Aidex Corp. *	Council Bluffs	R	O
94	09	AZ	Mountain View Mobile Homes *	Globe	R F	C
95	04	TN	North Hollywood Dump *	Memphis	V R S	O
96	04	KY	A.L. Taylor (Valley of Drums) *	Brooks	R F	I
97	09	GU	Ordot Landfill *	Guam	R	
98	04	MS	Flowood Site *	Flowood	V	
99	08	UT	Rose Park Sludge Pit *	Salt Lake City	V	C
100	07	KS	Arkansas City Dump *	Arkansas City	R	

Appendix B cont'd

National Priorities List (by Rank)
July 1987

NPL Rank	EPA Reg	St	Site Name	City/County	Response Category[1]				Cleanup Status[2]
Group 3 (HRS Scores 55.58 - 51.94)									
101	05	IL	Parsons Casket Hardware Co.	Belvidere				D	
102	05	IL	A & F Material Reclaiming, Inc.	Greenup		F			O
103	03	PA	Douglassville Disposal	Douglassville	R				
104	02	NJ	Krysowaty Farm	Hillsborough	R				O
105	05	MN	Koppers Coke	St. Paul	V		S		
106	01	MA	Plymouth Harbor/Cannon Engnrng	Plymouth	V	R	S		O
107	10	ID	Bunker Hill Mining & Metallurg	Smelterville		F	S		
108	02	NY	Hudson River PCBs	Hudson River	R				I
109	02	NJ	Universal Oil Products(Chem Div)	East Rutherford	V		S		
110	09	CA	Aerojet General Corp.	Rancho Cordova		F			I
111	10	WA	Com Bay, South Tacoma Channel	Tacoma	V	R	F	S	O
112	03	PA	Osborne Landfill	Grove City	V		S		
113	08	UT	Portland Cement (Kiln Dust 2 & 3)	Salt Lake City	V		S		
114	01	CT	Old Southington Landfill	Southington			S		
115	02	NY	Syosset Landfill	Oyster Bay	V	F			
116	09	AZ	Nineteenth Avenue Landfill	Phoenix			S		
117	10	OR	Teledyne Wah Chang	Albany	V				
118	10	WA	Midway Landfill	Kent			S		O
119	02	NY	Sinclair Refinery	Wellsville	R				
120	04	AL	Mowbray Engineering Co.	Greenville	R				O
121	05	MI	Spiegelberg Landfill	Green Oak Township	R				O
122	04	FL	Miami Drum Services	Miami	R	F			O
123	02	NJ	Reich Farms	Pleasant Plains	R				
124	10	ID	Union Pacific Railroad Co.	Pocatello				D	
125	02	NJ	South Brunswick Landfill	South Brunswick	V	F			O
126	04	AL	Ciba-Geigy Corp. (McIntosh Plant)	McIntosh				D	I
127	04	FL	Kassauf-Kimerling Battery	Tampa	V	R	S		I
128	05	IL	Wauconda Sand & Gravel	Wauconda	R				
129	06	TX	Bailey Waste Disposal	Bridge City	R				
130	01	NH	Ottati & Goss/Kingston Steel Drum	Kingston	V	R	F	S	O
131	05	MI	Ott/Story/Cordova	Dalton Township	V	R	F	S	O
132	05	MI	Thermo-Chem, Inc.	Muskegon				D	
133	03	VA	Greenwood Chemical Co.	Newtown	R				
134	02	NJ	NL Industries	Pedricktown	V	F			
135	05	MN	St. Regis Paper Co.	Cass Lake			S		I
136	02	NJ	Ringwood Mines/Landfill	Ringwood Borough	V	F			
137	04	FL	Whitehouse Oil Pits	Whitehouse	R				O
138	04	GA	Hercules 009 Landfill	Brunswick				D	
139	02	NY	Jones Sanitation	Hyde Park				D	
140	05	MI	Velsicol Chemical (Michigan)	St. Louis	V		S		I
141	05	OH	Summit National	Deerfield Township	R				O
142	02	NY	Love Canal	Niagara Falls	R	F	S		O
143	03	DE	Coker's Sanitation Service Lfs	Kent County				D	
144	05	MI	Rockwell International (Allegan)	Allegan				D	
145	05	MN	Pine Bend Sanitary Landfill	Dakota County			S		
146	07	IA	Lawrence Todtz Farm	Camanche				D	
147	05	IN	Fisher-Calo	LaPorte		F			
148	04	FL	Pioneer Sand Co.	Warrington	R		S		
149	05	MI	Springfield Township Dump	Davisburg	R				
150	03	PA	Hranica Landfill	Buffalo Township	V		F	S	O

Appendix B cont'd.

National Priorities List (by Rank)
July 1987

NPL Rank	EPA Reg	St	Site Name	City/County	Response Category[1]				Cleanup Status[2]
Group 4 (HRS Scores 51.93 - 48.36)									
151	04	NC	Martin Marietta, Sodyeco, Inc.	Charlotte	V				
152	04	FL	Zellwood Ground Water Contamin	Zellwood		F			I
153	05	MI	Packaging Corp. of America	Filer City	V	F			
154	05	WI	Muskego Sanitary Landfill	Muskego		F			
155	02	NY	Hooker (S Area)	Niagara Falls	V		F	S	
156	03	PA	Lindane Dump	Harrison Township				D	O
157	08	CO	Central City-Clear Creek	Idaho Springs	R				
158	02	NJ	Ventron/Velsicol	Wood Ridge Borough	V	R	S		
159	04	FL	Taylor Road Landfill	Seffner	V		F		O
160	01	RI	Western Sand & Gravel	Burrillville		R	S		O
161	04	SC	Koppers Co., Inc (Florence Plant)	Florence			S		
162	02	NJ	Maywood Chemical Co.	Maywood/Rochelle Pk		R			O
163	02	NJ	Nascolite Corp.	Millville		R			
164	05	OH	Industrial Excess Landfill	Uniontown		R	S		I
165	06	OK	Hardage/Criner	Criner			F		
166	05	MI	Rose Township Dump	Rose Township		R			
167	05	MN	Waste Disposal Engineering	Andover	V	R	F	S	
168	02	NY	Liberty Industrial Finishing	Farmingdale	V			S	
169	02	NJ	Kin-Buc Landfill	Edison Township	V	R	F		O
170	05	IN	Waste, Inc., Landfill	Michigan City	V		F	S	
171	05	OH	Bowers Landfill	Circleville	V		F		
172	02	NJ	Ciba-Geigy Corp.	Toms River	V		F		
173	05	MI	Butterworth #2 Landfill	Grand Rapids			F		
174	02	NJ	American Cyanamid Co.	Bound Brook	V			S	
175	03	PA	Heleva Landfill	North Whitehall Twp	V	R	F		O
176	02	NJ	Ewan Property	Shamong Township		R			
177	02	NY	Batavia Landfill	Batavia	V		F		
178	05	MN	Boise Cascade/Onan/Medtronics	Fridley				S	O
179	01	RI	L&RR, Inc.	North Smithfield				S	
180	03	PA	Butler Mine Tunnel	Pittston	V	R	F		O
181	04	FL	NW 58th Street Landfill	Hialeah	V	R	F	S	I
182	02	NJ	Delilah Road	Egg Harbor Township		R			
183	03	PA	Mill Creek Dump	Erie		R			O
184	02	NJ	Glen Ridge Radium Site	Glen Ridge		R			O
185	02	NJ	Montclair/West Orange Radium Site	Montclair/W Orange		R			O
186	04	FL	Sixty-Second Street Dump	Tampa		R			I
187	05	MI	G&H Landfill	Utica		R			
188	04	NC	Celanese(Shelby Fiber Operations)	Shelby	V				I
189	02	NJ	Metaltec/Aerosystems	Franklin Borough		R			
190	05	WI	Schmalz Dump	Harrison		R			
191	05	MI	Motor Wheel, Inc.	Lansing				D	O
192	02	NJ	Lang Property	Pemberton Township			F		
193	06	TX	Stewco, Inc.	Waskom		R	F		O
194	02	NJ	Sharkey Landfill	Parsippany/Troy Hls		R			
195	09	CA	Selma Treating Co.	Selma			F		
196	06	LA	Cleve Reber	Sorrento		R			I
197	05	IL	Velsicol Chemical (Illinois)	Marshall		R			C
198	05	MI	Tar Lake	Mancelona Township			F		
199	02	NY	Johnstown City Landfill	Town of Johnstown		R			
200	04	NC	NC State U (Lot 86, Farm Unit #1)	Raleigh				D	

National Priorities List (by Rank)
July 1987

NPL Rank	EPA Reg	St	Site Name	City/County	Response Category[1]					Cleanup Status[2]
Group 5 (HRS Scores 48.36 - 45.92)										
201	08	CO	Lowry Landfill	Arapahoe County	V	R				O
202	05	MN	MacGillis & Gibbs/Bell Lumber	New Brighton		R		S		I
203	03	PA	Hunterstown Road	Straban Township	V	R	F			O
204	03	MD	Woodlawn County Landfill	Woodlawn					D	
205	02	NJ	Combe Fill North Landfill	Mount Olive Twp		R				
206	01	MA	Re-Solve, Inc.	Dartmouth		R	F			I
207	02	NJ	Goose Farm	Plumstead Township	V	R	F	S		O
208	04	TN	Velsicol Chem (Hardeman County)	Toone				S		O
209	02	NY	York Oil Co.	Moira		R	F			O
210	04	FL	Sapp Battery Salvage	Gottondale		R				O
211	04	SC	Wamchem, Inc.	Burton	V					
212	02	NJ	Chemical Leaman Tank Lines, Inc.	Bridgeport	V		F			
213	05	WI	Master Disposal Service Landfill	Brookfield		R				
214	07	KS	Doepke Disposal (Holliday)	Johnson County		R				
215	02	NJ	Florence Land Recontouring Lndfll	Florence Township		R				
216	01	RI	Davis Liquid Waste	Smithfield		R		S		O
217	01	MA	Charles-George Reclamation Lndfll	Tyngsborough		R	F			O
218	02	NJ	King of Prussia	Winslow Township	V		F			
219	03	VA	Chisman Creek	York County		R				
220	05	OH	Nease Chemical	Salem	V			S		I
221	08	CO	Eagle Mine	Minturn/Redcliff		R		S		O
222	02	NJ	W. R. Grace & Co. (Wayne Plant)	Wayne Township		R				O
223	02	NJ	Chemical Control	Elizabeth		R		S		O
224	04	NC	Charles Macon Lagoon & Drum Stor	Cordova		R	F			O
225	04	SC	Leonard Chemical Co., Inc.	Rock Hill			F	S		O
226	05	OH	Allied Chemical & Ironton Coke	Ironton		R	F			I
227	05	MI	Verona Well Field	Battle Creek		R				I
228	07	MO	Lee Chemical	Liberty					D	O
229	01	CT	Beacon Heights Landfill	Beacon Falls		R				
230	04	AL	Stauffer Chem (Cold Creek Plant)	Bucks	V					
231	05	MN	Burlington Northern (Brainerd)	Brainerd/Baxter	V					O
232	05	MI	Torch Lake	Houghton County					D	
233	01	RI	Central Landfill	Johnston	V		F	S		
234	03	PA	Malvern TCE	Malvern					D	O
235	02	NY	Facet Enterprises, Inc.	Elmira	V		F			
236	03	DE	Delaware Sand & Gravel Landfill	New Castle County		R				O
237	03	PA	MW Manufacturing	Valley Township		R		S		O
238	03	VA	C & R Battery Co., Inc.	Chesterfield County		R				I
239	04	TN	Murray-Ohio Dump	Lawrenceburg	V			S		
240	05	IN	Envirochem Corp.	Zionsville	V	R	F			O
241	05	IN	MIDCO I	Gary			F			O
242	05	OH	Ormet Corp.	Hannibal	V		F	S		
243	05	OH	South Point Plant	South Point			F			I
244	03	PA	Whitmoyer Laboratories	Jackson Township		R				
245	04	FL	Coleman-Evans Wood Preserving Co.	Whitehouse		R	F	S		O
246	02	NJ	Dayco Corp./L.E Carpenter Co.	Wharton Borough	V			S		O
247	03	PA	Shriver's Corner	Straban Township	V	R	F			O
248	03	PA	Dorney Road Landfill	Upper Macungie Twp		R				O
249	05	IN	Northside Sanitary Landfill, Inc	Zionsville			F	S		
250	04	FL	Florida Steel Corp.	Indiantown	V					O

National Priorities List (by Rank)
July 1987

NPL Rank	EPA Reg	St	Site Name	City/County	Response Category[1]					Cleanup Status[2]
Group 6 (HRS Scores 45.91 - 43.23)										
251	05	IL	Pagel's Pit	Rockford					D	O
252	05	MN	U of Minnesota Rosemount Res Cent	Rosemount				S		
253	05	MN	Freeway Sanitary Landfill	Burnsville					D	
254	09	AZ	Litchfield Airport Area	Goodyear/Avondale			F			
255	09	CA	Firestone Tire (Salinas Plant)	Salinas				S		O
256	02	NJ	Spence Farm	Plumstead Township	V	R		S		I
257	06	AR	Mid-South Wood Products	Mena			F			
258	04	MS	Newsom Brothers/Old Reichhold	Columbia		R				O
259	09	CA	Atlas Asbestos Mine	Fresno County		R				
260	09	CA	Coalinga Asbestos Mine	Coalinga		R				
261	04	FL	Brown Wood Preserving	Live Oak	V		F			
262	02	NY	Port Washington Landfill	Port Washington		R	F			
263	05	IN	Columbus Old Municipal Lndfll #1	Columbus					D	
264	02	NJ	Combe Fill South Landfill	Chester Township		R				
265	02	NJ	JIS Landfill	Jamesburg/S. Brnswck				S		
266	02	NY	Tronic Plating Co., Inc.	Farmingdale	V		F			
267	03	PA	Centre County Kepone	State College Boro				S		O
268	05	OH	Fields Brook	Ashtabula		R				I
269	01	CT	Solvents Recovery Service	Southington			F			I
270	08	CO	Woodbury Chemical Co.	Commerce City		R				
271	02	NJ	Waldick Aerospace Devices, Inc.	Wall Township		R		S		O
272	01	MA	Hocomonco Pond	Westborough		R				
273	04	KY	Distler Brickyard	West Point		R	F			O
274	02	NY	Ramapo Landfill	Ramapo	V	R		S		
275	09	CA	Coast Wood Preserving	Ukiah				S		
276	09	CA	South Bay Asbestos Area	Alviso		R				I
277	02	NY	Mercury Refining, Inc.	Colonie	V			S		
278	04	FL	Hollingsworth Solderless Terminal	Fort Lauderdale		R				I
279	02	NY	Olean Well Field	Olean	V	R	F			O
280	04	FL	Varsol Spill	Miami		R				I
281	05	MN	Joslyn Manufacturing & Supply Co.	Brooklyn Center	V			S		
282	03	PA	York County Solid Waste/Refuse Lf	Hopewell Township	V			S		O
283	05	WI	Spickler Landfill	Spencer					D	
284	08	CO	Denver Radium Site	Denver		R				I
285	03	PA	Route 940 Drum Dump	Pocono Summit					D	I
286	04	FL	Tower Chemical Co.	Clermont		R	F			O
287	03	PA	C & D Recycling	Foster Township		R				O
288	07	MO	Syntex Facility	Verona	V		F			I
289	08	MT	Milltown Reservoir Sediments	Milltown		R				I
290	05	MN	Arrowhead Refinery Co.	Hermantown		R				I
291	10	OR	Martin-Marietta Aluminum Co.	The Dalles	V					
292	08	CO	Uravan Uranium (Union Carbide)	Uravan					D	
293	02	NJ	Pijak Farm	Plumstead Township	V	R		S		I
294	02	NJ	Syncon Resins	South Kearny		R				O
295	05	MN	Oak Grove Sanitary Landfill	Oak Grove Township		R				
296	09	CA	Liquid Gold Oil Corp.	Richmond				S		
297	09	CA	Purity Oil Sales, Inc.	Malaga		R				O
298	01	NH	Tinkham Garage	Londonderry			F	S		O
299	04	FL	Alpha Chemical Corp.	Galloway	V					
300	02	NJ	Boe Creek Farm	Howell Township		R				

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NPL Rank	EPA Reg	St	Site Name	City/County	Response Category[1]				Cleanup Status[2]
Group 7 (HRS Scores 43.19 - 42.00)									
301	01	ME	Saco Tannery Waste Pits	Saco		R			O
302	02	PR	Frontera Creek	Rio Abajo			F		
303	04	FL	Pickettville Road Landfill	Jacksonville	V		F		I
304	05	OH	Alsco Anaconda	Gnadenhutten				S	
305	01	MA	Iron Horse Park	Billerica		R			O
306	03	PA	Palmerton Zinc Pile	Palmerton	V		F		
307	05	IN	Neal's Landfill (Bloomington)	Bloomington	V		F		
308	05	WI	Kohler Co. Landfill	Kohler	V				
309	04	AL	Interstate Lead Co. (ILCO)	Leeds	V	R	F	S	O
310	09	AZ	Hassayampa Landfill	Hassayampa				D	
311	01	MA	Silresim Chemical Corp.	Lowell		R		S	O
312	01	MA	Wells G&H	Woburn	V		F		
313	02	NJ	Chemsol, Inc.	Piscataway	V			S	
314	05	WI	Lauer I Sanitary Landfill	Menomonee Falls				S	
315	05	MI	Petoskey Municipal Well Field	Petoskey			F		
316	05	MN	Union Scrap	Minneapolis				S	
317	02	NJ	Radiation Technology, Inc.	Rockaway Township	V			S	
318	02	NJ	Fair Lawn Well Field	Fair Lawn	V			S	
319	05	IN	Main Street Well Field	Elkhart		R			
320	05	MN	Lehillier/Mankato Site	Lehillier/Mankato		R			O
321	10	WA	Lakewood Site	Lakewood		R			O
322	03	PA	Industrial Lane	Williams Township		R	F		
323	05	IN	Fort Wayne Reduction Dump	Fort Wayne		R			
324	05	WI	Onalaska Municipal Landfill	Onalaska		R			
325	05	WI	National Presto Industries, Inc.	Eau Claire				D	
326	02	NJ	Monroe Township Landfill	Monroe Township	V			S	O
327	02	NJ	Rockaway Borough Well Field	Rockaway Township		R			
328	05	IN	Wayne Waste Oil	Columbia City		R	F		
329	03	MD	Mid-Atlantic Wood Preservers, Inc	Harmans	V		F		
330	10	ID	Pacific Hide & Fur Recycling Co.	Pocatello			F		O
331	07	IA	Des Moines TCE	Des Moines		R			I
332	02	NJ	Beachwood/Berkley Wells	Berkley Township		R			
333	02	NY	Vestal Water Supply Well 4-2	Vestal	V			S	
334	02	PR	Vega Alta Public Supply Wells	Vega Alta			F		
335	05	MI	Sturgis Municipal Wells	Sturgis		R			
336	05	MN	Washington County Landfill	Lake Elmo				S	
337	06	TX	Odessa Chromium #1	Odessa		R			
338	06	TX	Odessa Chromium #2 (Andrews Hgwy)	Odessa		R			
339	07	NE	Hastings Ground Water Contamin	Hastings		R			
340	09	AZ	Indian Bend Wash Area	Scottsdale/Tmpe/Phnx	V		F		
341	09	CA	San Gabriel Valley (Area 1)	El Monte		R			I
342	09	CA	San Gabriel Valley (Area 2)	Baldwin Park Area		R			
343	09	CA	San Fernando Valley (Area 1)	Los Angeles				D	
344	09	CA	San Fernando Valley (Area 2)	Los Angeles/Glendale				D	
345	09	CA	San Fernando Valley (Area 3)	Glendale				D	
346	09	CA	T.H. Agriculture & Nutrition Co.	Fresno				D	
347	10	WA	Com Bay, Near Shore/Tide Flats	Pierce County		R	F	S	
348	05	IL	LaSalle Electric Utilities	LaSalle		R			I
349	05	IL	Cross Brothers Pail (Pembroke)	Pembroke Township		R			I
350	04	NC	Jadco-Hughes Facility	Belmont				D	

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NPL Rank	EPA Reg	St	Site Name	City/County	Response Category[1]				Cleanup Status[2]
Group 8 (HRS Scores 41.93 - 39.71)									
351	02	NJ	Monitor Devices/Intercircuits Inc	Wall Township		R			
352	02	PR	Upjohn Facility	Barceloneta	V		F		O
353	09	CA	McColl	Fullerton		R	F		I
354	03	PA	Henderson Road	Upper Merion Twp	V		F		
355	02	NY	Hooker Chemical/Ruco Polymer Corp	Hicksville				D	
356	10	WA	Colbert Landfill	Colbert	V	R			O
357	06	LA	Petro-Processors	Scotlandville	V		F		
358	02	NY	Applied Environmental Services	Glenwood Landing				S	O
359	02	PR	Barceloneta Landfill	Florida Afuera			F		
360	01	NH	Tibbets Road	Barrington		R			O
361	03	MD	Sand, Gravel & Stone	Elkton	V	R	F		O
362	01	CT	Revere Textile Prints Corp.	Sterling				D	
363	05	MI	Spartan Chemical Co.	Wyoming	V			S	
364	02	NJ	Roebling Steel Co.	Florence		R			
365	03	PA	East Mount Zion	Springettsbury Twp		R			
366	04	TN	Ammicola Dump	Chattanooga		R			
367	02	NJ	Vineland State School	Vineland	V			S	I
368	01	MA	Groveland Wells	Groveland	V	R		S	
369	02	NY	General Motors (Cent Foundry Div)	Massena	V		F		O
370	01	NH	Mottolo Pig Farm	Raymond		R	F	S	O
371	04	SC	SCRDI Dixiana	Cayce		R	F	S	O
372	05	MI	Roto-Finish Co., Inc.	Kalamazoo				D	O
373	05	MN	Olmsted County Sanitary Landfill	Oronoco				D	
374	07	MO	Quality Plating	Sikeston				D	
375	07	MO	Fulbright Landfill	Springfield				D	
376	03	PA	Presque Isle	Erie		R			
377	02	NJ	Williams Property	Swainton		R			
378	02	NJ	Renora, Inc.	Edison Township	V		F		O
379	02	NJ	Denzer & Schafer X-Ray Co.	Bayville	V			S	
380	02	NJ	Hercules, Inc. (Gibbstown Plant)	Gibbstown				D	
381	05	IN	Ninth Avenue Dump	Gary		R			
382	04	SC	Golden Strip Septic Tank Service	Simpsonville				D	
383	10	WA	Toftdahl Drums	Brush Prairie		R			O
384	06	TX	Texarkana Wood Preserving Co.	Texarkana		R			O
385	06	AR	Gurley Pit	Edmondson			F		
386	04	FL	Petroleum Products Corp.	Pembroke Park	V		F	S	O
387	01	RI	Peterson/Puritan, Inc.	Lincoln/Cumberland				D	
388	07	MO	Times Beach Site	Times Beach		R			O
389	05	MI	Wash King Laundry	Pleasant Plains Twp		R			
390	05	MN	Whittaker Corp.	Minneapolis				S	
391	05	WI	Algoma Municipal Landfill	Algoma				D	
392	05	MN	NL Industries/Taracorp/Golden	St. Louis Park				S	I
393	09	CA	Westinghouse (Sunnyvale Plant)	Sunnyvale				D	
394	01	CT	Kellogg-Deering Well Field	Norwalk		R			
395	01	MA	Cannon Engineering Corp. (CEC)	Bridgewater		R		S	
396	05	MI	H. Brown Co., Inc.	Grand Rapids				D	
397	02	NY	Nepera Chemical Co., Inc.	Maybrook	V				
398	02	NY	Niagara County Refuse	Wheatfield		R			
399	04	FL	Sherwood Medical Industries	Deland				D	
400	04	AL	Olin Corp. (McIntosh Plant)	McIntosh				D	

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NPL Rank	EPA Reg	St	Site Name	City/County	Response Category[1]					Cleanup Status[2]	
Group 9 (HRS Scores 39.66 - 37.77)											
401	05	MI	Southwest Ottawa County Landfill	Park Township	V			S			
402	02	NY	Kentucky Avenue Well Field	Horseheads		R					
403	02	NY	Pasley Solvents & Chemicals, Inc.	Hempstead					D		
404	02	NJ	Asbestos Dump	Millington	V		F				
405	04	KY	Lee's Lane Landfill	Louisville	V		F				O
406	06	AR	Frit Industries	Walnut Ridge	V		F				C
407	05	OH	Fultz Landfill	Jackson Township		R					I
408	04	FL	Tri-City Oil Conservationist, Inc	Tampa		R	F	S			O
409	05	OH	Coshocton Landfill	Franklin Township			F				O
410	04	TN	Arlington Blending & Packaging	Arlington		R	F				O
411	01	RI	Davis (GSR) Landfill	Glocester				S			
412	03	PA	Lord-Shope Landfill	Girard Township	V			S			O
413	10	WA	FMC Corp. (Yakima Pit)	Yakima			F				
414	05	WI	Northern Engraving Co.	Sparta	V		F				
415	06	TX	South Cavalcade Street	Houston	V		F				
416	01	MA	PSC Resources	Palmer				S			O
417	05	MI	Forest Waste Products	Otisville		R	F				
418	03	PA	Drake Chemical	Lock Haven		R	F				O
419	01	NH	Kearsarge Metallurgical Corp.	Conway				S			
420	04	SC	Palmetto Wood Preserving	Dixiana		R					O
421	05	IL	Petersen Sand & Gravel	Libertyville		R					
422	05	MI	Clare Water Supply	Clare		R	F				
423	03	PA	Havertown PCP	Haverford	V	R	F				O
424	03	DE	New Castle Spill	New Castle County					D		
425	08	MT	Idaho Pole Co.	Bozeman					D		
426	03	DE	NCR Corp. (Millsboro Plant)	Millsboro					D		
427	05	IN	Lake Sandy Jo (M&M Landfill)	Gary		R					
428	05	IL	Johns-Manville Corp.	Waukegan			F				
429	05	MI	Chem Central	Wyoming Township				S			
430	05	MI	Novaco Industries	Temperance		R					
431	05	MN	Windom Dump	Windom					D		
432	02	NJ	Jackson Township Landfill	Jackson Township					D		O
433	05	IL	NL Industries/Taracorp Lead Smelt	Granite City	V		F	S			
434	05	MI	K&L Avenue Landfill	Oshtemo Township			F				
435	10	WA	Kaiser Aluminum Mead Works	Mead	V						
436	05	MN	Perham Arsenic Site	Perham		R					O
437	05	MI	Charlevoix Municipal Well	Charlevoix		R					I
438	02	NJ	Montgomery Township Housing Devel	Montgomery Township		R					
439	02	NJ	Rocky Hill Municipal Well	Rocky Hill Borough		R					
440	02	NJ	Cinnaminson Ground Water Contamin	Cinnaminson Township		R					
441	02	NY	Brewster Well Field	Putnam County		R					
442	02	NY	Vestal Water Supply Well 1-1	Vestal		R					I
443	03	PA	Bally Ground Water Contamination	Bally Borough	V		F				
444	04	NC	Bypass 601 Ground Water Contamin	Concord		R					I
445	07	MO	Solid State Circuits, Inc.	Republic		R	F	S			O
446	07	NE	Waverly Ground Water Contamin	Waverly		R					
447	09	CA	Advanced Micro Devices, Inc.	Sunnyvale					D		
448	05	MN	Nutting Truck & Caster Co.	Faribault				S			
449	02	NJ	U.S. Radium Corp.	Orange		R	F				
450	06	TX	Highlands Acid Pit	Highlands		R					I

Appendix B cont'd.

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NPL Rank	EPA Reg	St	Site Name	City/County	Response Category[1]					Cleanup Status[2]	
Group 10 (HRS Scores 37.69 - 35.65)											
451	03	PA	Resin Disposal	Jefferson Borough					D		O
452	08	MT	Libby Ground Water Contamination	Libby			F				
453	04	KY	Newport Dump	Newport	R						
454	03	PA	Moyers Landfill	Eagleville	R						
455	04	FL	Parramore Surplus	Mount Pleasant					D		O
456	01	NH	Savage Municipal Water Supply	Milford			F				
457	05	MN	LaGrand Sanitary Landfill	LaGrand Township				S			
458	05	IN	Poer Farm	Hancock County	R		F				O
459	03	PA	Brown's Battery Breaking	Shoemakersville	R		F				O
460	02	NY	SMS Instruments, Inc.	Deer Park					D		
461	05	MI	Hedblum Industries	Oscoda			F				
462	06	TX	United Creosoting Co.	Conroe	R		F				O
463	02	NY	Byron Barrel & Drum	Byron	R		F				O
464	08	WY	Baxter/Union Pacific Tie Treating	Laramie	V		F	S			O
465	02	NY	Anchor Chemicals	Hicksville					D		
466	05	MI	Waste Management-Mich (Holland)	Holland					D		
467	06	TX	North Cavalcade Street	Houston	R						
468	02	NJ	Sayreville Landfill	Sayreville					D		
469	01	NH	Dover Municipal Landfill	Dover	R						
470	02	NY	Ludlow Sand & Gravel	Clayville	V			S			
471	05	WI	City Disposal Corp. Landfill	Dunn			F	S			
472	02	NJ	Tabernacle Drum Dump	Tabernacle Township	V	R	F				O
473	02	NJ	Cooper Road	Voorhees Township	V			S			O
474	07	MO	Minker/Stout/Romaine Creek	Imperial	R						O
475	04	KY	Howe Valley Landfill	Howe Valley					D		
476	01	CT	Yaworski Waste Lagoon	Canterbury		R		S			
477	03	WV	Leetown Pesticide	Leetown	V	R					O
478	04	FL	Cabot/Koppers	Gainesville		R	F	S			O
479	02	NJ	Evor Phillips Leasing	Old Bridge Township	R						
480	03	PA	William Dick Lagoons	West Caln Township					D		
481	03	PA	Wade (ABM)	Chester		R	F	S			O
482	03	PA	Lackawanna Refuse	Old Forge Borough		R					O
483	06	OK	Compass Industries (Avery Drive)	Tulsa		R					
484	02	NJ	Mannheim Avenue Dump	Galloway Township	V		F				I
485	05	IN	Neal's Dump (Spencer)	Spencer			F	S			O
486	02	NY	Fulton Terminals	Fulton	V	R					O
487	06	LA	Dutchtown Treatment Plant	Ascension Parish					D		
488	03	PA	Westinghouse Elevator Co. Plant	Gettysburg	V	R	F				O
489	01	NH	Auburn Road Landfill	Londonderry			F	S			
490	03	WV	Fike Chemical, Inc.	Nitro			F				O
491	05	MN	General Mills/Henkel Corp.	Minneapolis				S			
492	05	OH	Laskin/Poplar Oil Co.	Jefferson Township	V	R	F				O
493	05	OH	Old Mill	Rock Creek		R					O
494	07	KS	Johns' Sludge Pond	Wichita	V		F				I
495	05	WI	Stoughton City Landfill	Stoughton					D		
496	09	CA	Del Norte Pesticide Storage	Crescent City		R					
497	02	NJ	De Rewal Chemical Co.	Kingwood Township			F				
498	03	PA	Middletown Air Field	Middletown					D		O
499	02	NJ	Swope Oil & Chemical Co.	Pennsauken	V	R	F				O
500	04	GA	Monsanto Corp. (Augusta Plant)	Augusta	V			S			O

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NPL Rank	EPA Reg	St	Site Name	City/County	Response Category[1]				Cleanup Status[2]
Group 11 (HRS Scores 35.64 - 34.69)									
501	01	NH	South Municipal Water Supply Well	Peterborough			F	S	
502	01	ME	Winthrop Landfill	Winthrop	V		F	S	O
503	03	WV	Ordnance Works Disposal Areas	Morgantown			F		
504	06	AR	Cecil Lindsey	Newport		R			I
505	05	OH	Zanesville Well Field	Zanesville	V			S	
506	02	NY	Suffern Village Well Field	Village of Suffern		R			
507	02	NY	Endicott Village Well Field	Village of Endicott		R			
508	03	PA	Aladdin Plating	Scott Township		R			I
509	04	FL	Harris Corp. (Palm Bay Plant)	Palm Bay	V			S	O
510	05	MN	Kummer Sanitary Landfill	Bemidji		R			I
511	05	OH	Sanitary Landfill Co. (IWD)	Dayton				D	
512	05	WI	Eau Claire Municipal Well Field	Eau Claire		R			
513	07	MO	Valley Park TCE	Valley Park				D	
514	09	CA	San Fernando Valley (Area 4)	Los Angeles				D	
515	09	CA	Monolithic Memories	Sunnyvale				D	
516	09	CA	National Semiconductor Corp.	Santa Clara				D	
517	04	GA	Powersville Site	Peach County		R	F		
518	05	MI	Grand Traverse Overall Supply Co.	Greilickville			F		
519	05	MI	Metamora Landfill	Metamora		R			I
520	05	MI	Whitehall Municipal Wells	Whitehall		R			
521	03	DE	Standard Chlorine of Delaware,Inc	Delaware City				D	
522	05	MN	South Andover Site	Andover		R			O
523	02	NJ	Diamond Alkali Co.	Newark	V	R	F	S	O
524	03	VA	Avtex Fibers, Inc.	Front Royal	V		F		
525	05	MI	Kentwood Landfill	Kentwood	V		F		
526	05	MI	Electrovoice	Buchanan				D	
527	02	NY	Katonah Municipal Well	Town of Bedford		R			O
528	09	CA	Teledyne Semiconductor	Mountain View				D	
529	02	PR	Fibers Public Supply Wells	Jobos	V		F		
530	05	IN	Marion (Bragg) Dump	Marion		R			
531	05	OH	Pristine, Inc.	Reading		R	F		I
532	05	WI	Mid-State Disposal, Inc. Landfill	Cleveland Township		R			
533	04	TN	American Creosote (Jackson Plant)	Jackson		R			O
534	08	CO	Broderick Wood Products	Denver	V		F		
535	05	OH	Buckeye Reclamation	St. Clairsville	V		F		I
536	02	NY	Preferred Plating Corp.	Farmingdale				D	
537	06	TX	Bio-Ecology Systems, Inc.	Grand Prairie		R			O
538	08	UT	Monticello Rad Contaminated Props	Monticello		R			I
539	02	NJ	Woodland Route 532 Dump	Woodland Township	V	R		S	
540	05	IN	American Chemical Service, Inc.	Griffith			F		
541	01	MA	Salem Acres	Salem				D	
542	02	NY	Richardson Hill Road Landfl/Pond	Sidney Center				D	
543	01	VT	Old Springfield Landfill	Springfield	V		F		O
544	02	NY	Solvent Savers	Lincklaen				D	
545	03	VA	U.S. Titanium	Piney River	V		F	S	O
546	05	IL	Galesburg/Koppers Co.	Galesburg				S	
547	02	NY	Hooker (Hyde Park)	Niagara Falls	V		F	S	
548	05	MI	SCA Independent Landfill	Muskegon Heights				S	
549	09	CA	MGM Brakes	Cloverdale				S	
550	06	LA	Bayou Sorrel Site	Bayou Sorrel			F		

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NPL Rank	EPA Reg	St	Site Name	City/County	Response Category[1]				Cleanup Status[2]
Group 12 (HRS Scores 34.68 - 33.73)									
551	05	MI	Duell & Gardner Landfill	Dalton Township				D	
552	10	WA	Mica Landfill	Mica				D	
553	02	NJ	Ellis Property	Evesham Township		R			O
554	04	KY	Distler Farm	Jefferson County		R	F		O
555	09	CA	Waste Disposal, Inc.	Santa Fe Springs				D	
556	10	WA	Harbor Island (Lead)	Seattle			F		
557	05	WI	Lemberger Transport & Recycling	Franklin Township		R			
558	05	OH	E.H. Schilling Landfill	Hamilton Township		R			I
559	05	MI	Cliff/Dow Dump	Marquette			F		
560	02	NY	Clothier Disposal	Town of Granby		R			
561	03	PA	Ambler Asbestos Piles	Ambler	V	R	F	S	O
562	10	WA	Queen City Farms	Maple Valley	V				O
563	02	NJ	Curcio Scrap Metal, Inc.	Saddle Brook Twp				D	
564	03	VA	L.A. Clarke & Son	Spotsylvania County		R	F		
565	05	WI	Scrap Processing Co., Inc.	Medford				S	
566	03	MD	Southern Maryland Wood Treating	Hollywood		R			O
567	06	NM	Homestake Mining Co.	Milan	V		F		O
568	09	CA	Beckman Instruments (Porterville)	Porterville				D	
569	04	FL	Dubose Oil Products Co.	Cantonment				S	O
570	05	MI	Mason County Landfill	Pere Marquette Twp		R	F		
571	05	MI	Cemetery Dump	Rose Center		R			
572	02	NJ	Hopkins Farm	Plumstead Township				S	
573	04	NC	Cape Fear Wood Preserving	Fayetteville		R			O
574	01	RI	Stamina Mills, Inc.	North Smithfield				D	
575	05	WI	Lemberger Landfill, Inc.	Whitelaw				S	
576	05	IN	Reilly Tar (Indianapolis Plant)	Indianapolis			F		
577	01	ME	Pinette's Salvage Yard	Washburn		R			
578	06	TX	Harris (Farley Street)	Houston	V		F		O
579	02	NJ	Wilson Farm	Plumstead Township				D	C
580	03	PA	Old City of York Landfill	Seven Valleys	V			S	
581	03	PA	Modern Sanitation Landfill	Lower Windsor Twp	V			S	
582	05	IL	Byron Salvage Yard	Byron		R			I
583	05	MI	North Bronson Industrial Area	Bronson				D	
584	03	PA	Stanley Kessler	King of Prussia			F		
585	02	NJ	Imperial Oil/Champion Chemicals	Morganville		R			O
586	02	NJ	Cosden Chemical Coatings Corp.	Beverly				D	
587	05	MN	St. Augusta San Lndfll/Engen Dump	St. Augusta Township				D	
588	02	NJ	Myers Property	Franklin Township		R			O
589	02	NJ	Pepe Field	Boonton		R			
590	10	WA	Northwest Transformer	Everson		R			O
591	02	NY	Genzale Plating Co.	Franklin Square				D	
592	05	WI	Sheboygan Harbor & River	Sheboygan				D	
593	05	MI	Ossineke Ground Water Contamin	Ossineke				D	
594	03	WV	Follansbee Site	Follansbee	V		F		I
595	03	PA	Keystone Sanitation Landfill	Union Township				D	
596	04	NC	Carolina Transformer Co.	Fayetteville		R	F		O
597	02	NY	North Sea Municipal Landfill	North Sea	V	R	F		O
598	03	PA	Bendix Flight Systems Division	Bridgewater Township				D	O
599	09	CA	Koppers Co.,Inc. (Oroville Plant)	Oroville				S	
600	09	CA	Louisiana-Pacific Corp.	Oroville				S	

National Priorities List (by Rank)
July 1987

NPL Rank	EPA Reg	St	Site Name	City/County	Response Category[1]					Cleanup Status[2]
Group 13 (HRS Scores 33.67 - 32.02)										
601	05	MI	South Macomb Disposal (Lf 9 & 9A)	Macomb Township				D		
602	05	MI	U.S. Aviex	Howard Township	V		F			
603	03	PA	Walsh Landfill	Honeybrook Township		R	F			O
604	02	NJ	Landfill & Development Co.	Mount Holly				S		
605	02	NJ	Upper Deerfield Township San Lndf	Upper Deerfield Twp		R	F			
606	02	NY	Hertel Landfill	Plattekill				D		
607	02	NY	Haviland Complex	Town of Hyde Park		R				
608	02	NY	Malta Rocket Fuel Area	Malta				D		
609	05	MI	Kent City Mobile Home Park	Kent City				D		
610	05	MN	Adrian Municipal Well Field	Adrian		R				
611	06	NM	AT & SF (Clovis)	Clovis	V		F			
612	07	KS	Strother Field Industrial Park	Cowley County	V			S		O
613	07	KS	Obee Road	Hutchinson				D		
614	02	NJ	Fried Industries	East Brunswick Twp		R				O
615	02	NY	American Thermostat Co.	South Cairo	V	R		S		
616	04	TN	Lewisburg Dump	Lewisburg	V					
617	05	MI	McGraw Edison Corp.	Albion	V			S		
618	02	NY	Goldisc Recordings, Inc.	Holbrook	V					
619	04	KY	Airco	Calvert City	V					I
620	03	PA	Metal Banks	Philadelphia	V		F			O
621	02	NY	Sarney Farm	Amenia		R	F			
622	01	MA	Rose Disposal Pit	Lanesboro			F	S		
623	05	OH	Van Dale Junkyard	Marietta				D		
624	08	MT	Montana Pole and Treating	Butte		R				I
625	04	KY	B.F. Goodrich	Calvert City	V					I
626	05	MI	Organic Chemicals, Inc.	Grandville				S		
627	02	NY	Volney Municipal Landfill	Town of Volney	V	R		S		O
628	02	NY	FMC Corp. (Dublin Road Landfill)	Town of Shelby	V			S		
629	05	WI	Tomah Fairgrounds	Tomah				D		
630	01	MA	Sullivan's Ledge	New Bedford		R	F			
631	04	KY	Smith's Farm	Brooks		R				O
632	02	PR	Juncos Landfill	Juncos	V		F			O
633	07	KS	Big River Sand Co.	Wichita		R				
634	05	IN	Bennett Stone Quarry	Bloomington	V		F			O
635	10	WA	Wyckoff Co./Eagle Harbor	Bainbridge Island			F			
636	04	FL	Munisport Landfill	North Miami			F			
637	04	AL	Stauffer Chem (LeMoyne Plant)	Axis	V					
638	02	NJ	M&T Delisa Landfill	Asbury Park	V		F			
639	06	TX	Crystal City Airport	Crystal City		R				O
640	04	SC	Geiger (C & M Oil)	Rantoules		R				
641	05	WI	Moss-American(Kerr-McGee Oil Co.)	Milwaukee		R	F			
642	05	WI	Waste Research & Reclamation Co.	Eau Claire				S		
643	10	OR	Gould, Inc.	Portland	V					
644	02	NY	Cortese Landfill	Vil of Narrowsburg	V			S		
645	05	MN	St. Louis River Site	St. Louis County		R				I
646	05	MI	Auto Ion Chemicals, Inc.	Kalamazoo	V		F			O
647	05	WI	Hagen Farm	Stoughton				S		
648	04	SC	Carolawn, Inc.	Fort Lawn	V	R	F			O
649	07	IA	Midwest Manufacturing/North Farm	Kellogg					D	
650	03	PA	Berks Sand Pit	Longswamp Township		R				O

Appendix B cont'd.

National Priorities List (by Rank)
July 1987

NPL Rank	EPA Reg	St	Site Name	City/County	Response Category[1]					Cleanup Status[2]
Group 14 (HRS Scores 32.00 - 30.76)										
651	05	MI	Sparta Landfill	Sparta Township				S		
652	05	IL	Acme Solvent (Morristown Plant)	Morristown	V	R				I
653	02	NJ	Pomona Oaks Residential Wells	Galloway Township		R				O
654	02	NY	Rowe Industries Ground Water Cont	Noyack/Sag Harbor		R				O
655	03	PA	Hebelka Auto Salvage Yard	Weisenberg Township		R				
656	04	FL	Hipps Road Landfill	Duval County	V	R	F			O
657	05	MN	Long Prairie Ground Water Contam	Long Prairie		R				
658	05	MN	Waite Park Wells	Waite Park		R				
659	09	CA	Applied Materials	Santa Clara					D	O
660	09	CA	Intel Magnetics	Santa Clara					D	
661	09	CA	Intel Corp. (Santa Clara III)	Santa Clara					D	
662	04	FL	Pepper Steel & Alloys, Inc.	Medley		R	F			O
663	01	ME	O'Connor Co.	Augusta	V	R				
664	05	WI	Oconomowoc Electroplating Co. Inc	Ashippin		R				
665	05	MI	Rasmussen's Dump	Green Oak Township		R				O
666	02	NY	Kenmark Textile Corp.	Farmingdale	V					I
667	03	PA	Westline Site	Westline		R				O
668	04	KY	Maxey Flats Nuclear Disposal	Hillsboro	V	R	F	S		
669	08	MT	Mouat Industries	Columbus					D	
670	02	NY	Claremont Polychemical	Old Bethpage	V			S		
671	05	OH	Powell Road Landfill	Dayton		R				I
672	03	PA	Croydon TCE	Croydon		R				
673	07	IA	Vogel Paint & Wax Co.	Orange City				S		
674	05	MN	Kurt Manufacturing Co.	Fridley				S		
675	03	PA	Revere Chemical Co.	Nockamixon Township		R				O
676	05	MI	Ionia City Landfill	Ionia	V		F			I
677	06	TX	Koppers Co., Inc. (Texarkana Plt)	Texarkana	V		F			
678	08	CO	Lincoln Park	Canon City			F			
679	08	CO	Smuggler Mountain	Pitkin County	V		F			
680	05	IN	Wedzeb Enterprises, Inc.	Lebanon			F	S		I
681	02	PR	GE Wiring Devices	Juana Diaz	V		F			
682	05	MI	Avenue "E" Ground Water Contamin	Traverse City				S		
683	05	OH	New Lyme Landfill	New Lyme		R				
684	02	NJ	Woodland Route 72 Dump	Woodland Township	V	R		S		
685	02	PR	RCA Del Caribe	Barceloneta					D	
686	05	MN	Koch Refining Co./N-Ren Corp.	Pine Bend	V			S		
687	03	PA	Brodhead Creek	Stroudsburg		R	F			O
688	05	WI	Fadrowski Drum Disposal	Franklin					D	
689	10	OR	United Chrome Products, Inc.	Corvallis		R				
690	05	MI	Anderson Development Co.	Adrian		R				
691	05	WI	Hunts Disposal Landfill	Caledonia					D	
692	05	MI	Shiawassee River	Howell					D	
693	06	OK	Tenth Street Dump/Junkyard	Oklahoma City		R	F			O
694	03	PA	Taylor Borough Dump	Taylor Borough		R	F			O
695	03	DE	Halby Chemical Co.	New Castle			F			
696	03	DE	Harvey & Knott Drum, Inc.	Kirkwood		R				O
697	04	TN	Gallaway Pits	Gallaway		R	F			O
698	05	OH	Big D Campground	Kingsville			F			
699	06	AR	Midland Products	Ola/Birta		R				
700	02	NY	Robintech, Inc./National Pipe Co.	Town of Vestal		R	F			

National Priorities List (by Rank)
July 1987

NPL Rank	EPA Reg	St	Site Name	City/County	Response Category[1]	Cleanup Status[2]
Group 15 (HRS Scores 30.75 - 28.91)						
701	02	NY	BEC Trucking	Town of Vestal	D	
702	05	WI	Tomah Armory	Tomah	D	
703	03	DE	Wildcat Landfill	Dover	R	
704	05	MI	Burrows Sanitation	Hartford	V R	O
705	03	PA	Blosenski Landfill	West Caln Township	R F	
706	03	VA	Rhinehart Tire Fire Dump	Frederick County	V R F	O
707	03	DE	Delaware City PVC Plant	Delaware City	V F	
708	03	MD	Limestone Road	Cumberland	R	O
709	02	NY	Hooker (102nd Street)	Niagara Falls	V F S	
710	03	DE	New Castle Steel	New Castle County	D	
711	06	NM	United Nuclear Corp.	Church Rock	F	
712	03	PA	Reeser's Landfill	Upper Macungie Twp	R	
713	06	AR	Industrial Waste Control	Fort Smith	F	
714	09	CA	Celtor Chemical Works	Hoopa	R	O
715	01	MA	Haverhill Municipal Landfill	Haverhill	D	
716	04	AL	Perdido Ground Water Contamin	Perdido	V	O
717	02	NY	Marathon Battery Corp.	Cold Springs	R	
718	02	NY	Colesville Municipal Landfill	Town of Colesville	V S	O
719	04	FL	Yellow Water Road Dump	Baldwin	V R F	O
720	05	OH	Skinner Landfill	West Chester	R	I
721	03	VA	First Piedmont Quarry (Route 719)	Pittsylvania County	D	
722	04	NC	Chemtronics, Inc.	Swannanoa	V R F	
723	05	IN	MIDCO II	Gary	V R F	O
724	03	MD	Kane & Lombard Street Drums	Baltimore	R	O
725	07	MO	Shenandoah Stables	Moscow Mills	F	
726	07	IA	Shaw Avenue Dump	Charles City	D	
727	10	WA	Silver Mountain Mine	Loomis	R	O
728	06	TX	Petro-Chemical (Turtle Bayou)	Liberty County	R	I
729	05	OH	Republic Steel Corp. Quarry	Elyria	D	
730	05	MN	Ritari Post & Pole	Sebeka	D	
731	06	LA	Bayou Bonfouca	Slidell	R F	I
732	09	CA	Intel Corp. (Mountain View Plant)	Mountain View	F	
733	09	CA	Raytheon Corp.	Mountain View	F	I
734	05	MN	Agate Lake Scrapyard	Fairview Township	R	O
735	06	AR	Jacksonville Municipal Landfill	Jacksonville	D	
736	06	AR	Rogers Road Municipal Landfill	Jacksonville	D	
737	03	VA	Saltville Waste Disposal Ponds	Saltville	V R S	O
738	04	SC	Palmetto Recycling, Inc.	Columbia	S	O
739	01	MA	Shpack Landfill	Norton/Attleboro	D	
740	03	PA	Kimberton Site	Kimberton Borough	D	O
741	01	MA	Norwood PCBs	Norwood	R	O
742	03	MD	Middletown Road Dump	Annapolis	R F	C
743	10	WA	Pesticide Lab (Yakima)	Yakima	D	
744	05	IN	Lemon Lane Landfill	Bloomington	V F	I
745	05	IN	Tri-State Plating	Columbus	D	
746	10	ID	Arrcom (Drexler Enterprises)	Rathdrum	R	
747	01	NH	Coakley Landfill	North Hampton	V R S	
748	03	PA	Fischer & Porter Co.	Warminster	V F	O
749	09	CA	Jibboom Junkyard	Sacramento	R	
750	02	NJ	A. O Polymer	Sparta Township	R	

National Priorities List (by Rank)
July 1987

NPL Rank	EPA Reg	St	Site Name	City/County	Response Category[1]	Cleanup Status[2]
Group 16 (HRS Scores 28.91 - 28.50, except for health-advisory sites)						
751	05	WI	Wausau Ground Water Contamination	Wausau	R	O
752	02	NJ	Dover Municipal Well 4	Dover Township	R	
753	02	NJ	Rockaway Township Wells	Rockaway	D	O
754	05	WI	Delavan Municipal Well #4	Delavan	S	
755	07	MO	North-U Drive Well Contamination	Springfield	R	O
756	09	CA	San Gabriel Valley (Area 3)	Alhambra	R	
757	09	CA	San Gabriel Valley (Area 4)	La Puente	R	
758	10	WA	American Lake Gardens	Tacoma	V R F	I
759	10	WA	Greenacres Landfill	Spokane County	R	
760	10	WA	Northside Landfill	Spokane	R	O
761	06	OK	Sand Springs Petrochemical Cmplx	Sand Springs	R F	O
762	06	TX	Pesses Chemical Co.	Fort Worth	R F	O
763	05	MN	East Bethel Demolition Landfill	East Bethel Township	D	
764	06	TX	Triangle Chemical Co.	Bridge City	R	O
765	02	NJ	PJP Landfill	Jersey City	R S	O
766	03	PA	Craig Farm Drum	Parker	V S	O
767	03	PA	Voortman Farm	Upper Saucon Twp	R	O
768	05	IL	Belvidere Municipal Landfill	Belvidere	R	I
769	07	MO	Bee Cee Manufacturing Co.	Malden	D	
770	03	PA	Lansdowne Radiation Site	Lansdowne	R	O

Number of NPL Sites: 770

★ = State top priority site

1: V = Voluntary or negotiated response
F = Federal enforcement
D = Category to be determined
R = Federal and State response
S = State enforcement

2: I = Implementation activity underway, one or more operable units
O = One or more operable units completed; others may be underway
C = Implementation activity completed for all operable units

National Priorities List,
Federal Section (by Group)
July 1987

NPL Gr[1]	St	Site Name	City/County	Response Category[2]	Cleanup Status[3]
2	TN	Milan Army Ammunition Plant	Milan	R	I
2	CO	Rocky Mountain Arsenal	Adams County	R	O
2	CA	McClellan AFB (Ground Water Cont)	Sacramento	R	O
2	MO	Weldon Spring Quarry (USDOE/Army)	St.Charles County	R	

National Priorities List.
Federal Section (by Group)
July 1987

NPL Gr[1]	St	Site Name	City/County	Response Category[2]	Cleanup Status[3]
4	GA	Robins AFB (Lndfll #4/Sludge Lag)	Houston County	R	
4	NE	Cornhusker Army Ammunition Plant	Hall County	R	O
4	NJ	Naval Air Engineering Center	Lakehurst	R	
4	UT	Hill Air Force Base	Ogden	R	I
6	UT	Ogden Defense Depot	Ogden	R	
6	CA	Sacramento Army Depot	Sacramento	R	
6	IL	Sangamo/Crab Orchard NWR (USDOI)	Carterville	R	
6	ME	Brunswick Naval Air Station	Brunswick	R	
7	WA	McChord AFB (Wash Rack/Treatment)	Tacoma	R	
7	OK	Tinker AFB (Soldier Cr/Bldg 3001)	Oklahoma City	R	
7	CA	Lawrence Livermore Lab (USDOE)	Livermore	R	O
7	CA	Sharpe Army Depot	Lathrop	R	O
9	CA	Norton Air Force Base	San Bernardino	R	
9	CA	Castle Air Force Base	Merced	R	I
10	NJ	Fort Dix (Landfill Site)	Pemberton Township	R	
10	AL	Alabama Army Ammunition Plant	Childersburg	R	O
12	PA	Letterkenny Army Depot (SE Area)	Chambersburg	R	O
12	NY	Griffiss Air Force Base	Rome	R	
12	VA	Defense General Supply Center	Chesterfield County	R	O
12	WA	Fort Lewis (Landfill No. 5)	Tacoma	R	
13	MN	Twin Cities Air Force(SAR Lndfll)	Minneapolis	R	
13	MO	Lake City Army Plant (NW Lagoon)	Independence	R	O
13	IL	Joliet Army Ammu Plant (Mfg Area)	Joliet	R	O
14	TX	Lone Star Army Ammunition Plant	Texarkana	R	
14	OR	Umatilla Army Depot (Lagoons)	Hermiston	R	
15	WA	Bangor Ordnance Disposal	Bremerton	R	
15	CA	Moffett Naval Air Station	Sunnyvale	R	
16	CA	Mather AFB (AC&W Disposal Site)	Sacramento	R	

Number of NPL Federal Facility Sites: 32

1: Sites are placed in groups (Gr) corresponding to groups of 50 on the final NPL

2: V = Voluntary or negotiated response
F = Federal enforcement
D = Category to be determined
R = Federal and State response
S = State enforcement

3: I = Implementation activity underway, one or more operable units
O = One or more operable units completed; others may be underway
C = Implementation activity completed for all operable units

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 300

[FRL-3187-5]

National Priorities List for Uncontrolled Hazardous Waste Sites; Federal Facility Sites

AGENCY: Environmental Protection Agency.

ACTION: Proposed rule.

SUMMARY: The Environmental Protection Agency ("EPA") is reproposing seven Federal facility sites that were previously proposed for the National Priorities List ("NPL") and proposing to expand the boundaries of an eighth Federal facility site. The NPL is Appendix B to the National Oil and Hazardous Substances Contingency Plan ("NCP"), which EPA promulgated pursuant to section 105 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 ("CERCLA") as amended by the Superfund Amendments and Reauthorization Act of 1986 ("SARA"), and Executive Order 12580.

These sites are being reproposed to be consistent with EPA's recently proposed policy for placing on the NPL sites located on Federally-owned facilities that may be subject to Subtitle C corrective action authorities of the Resource Conservation and Recovery Act ("RCRA") (see 52 FR 17991, May 13, 1987). This notice solicits comments on the Hazard Ranking System score for seven previously proposed Federal facility sites which include areas that are subject to RCRA corrective action authorities. In addition, EPA solicits comments on the expansion of one Federal facility site to include an area previously identified as a RCRA land disposal unit. This site is one of 32 Federal facility sites being promulgated elsewhere in today's **Federal Register.**

DATE: Comments may be submitted on or before August 21, 1987.

ADDRESSES: Comments may be mailed to Stephen A. Lingle, Director, Hazardous Site Evaluation Division, Office of Emergency and Remedial Response (WH-548A), U.S. Environmental Protection Agency, 401 M Street SW., Washington, DC 20460. Addresses for the Headquarters and Regional dockets are provided below. For further details on what these dockets contain, see Section III of the **SUPPLEMENTAL INFORMATION** portion of this preamble.

Tina Maragousis, Headquarters, U.S. EPA CERCLA Docket Office, Waterside Mall Subbasement, 401 M Street, SW., Washington, DC 20460, 202/382-3046

Peg Nelson, Region 1, U.S. EPA Library, Room E121, John F. Kennedy Federal Building, Boston, MA 02203, 617/565-3300

Carole Petersen, Region 2, Site Investigation and Compliance Branch, 26 Federal Plaza, 7th Floor, Room 737, New York, NY 10278, 212/264-8677

Diane McCreary, Region 3, U.S. EPA Library, 5th Floor, 841 Chestnut Building, 9th & Chestnut Streets, Philadelphia, PA 19107, 215/597-0580

Gayle Alston, Region 4, U.S. EPA Library, Room G-6, 345 Courtland Street, NE., Atlanta, GA 30365, 404/347-4216

Lou Tilley, Region 5, U.S. EPA Library, 16th Floor, 230 South Dearborn Street, Chicago, IL 60604, 312/353-2022

Barry Nash, Region 6, 1445 Ross Avenue, Mail Code 6H-ES, Dallas, TX 75202-2733, 214/655-6740

Connie McKenzie, Region 7, U.S. EPA Library, 726 Minnesota Avenue, Kansas City, KS 66101, 913/236-2828

Dolores Eddy, Region 8, U.S. EPA Library, 999 18th Street, Suite 500, Denver, CO 80202-2405, 303/293-1444

Linda Sunned, Region 9, U.S. EPA Library, 6th Floor, 215 Fremont Street, San Francisco, CA 94105, 415/974-8082

David Bennett, Region 10, U.S. EPA, 11th Floor, 1200 6th Avenue, Mail Stop 525, Seattle, WA 98101, 206/442-2103

FOR FURTHER INFORMATION CONTACT: Ann B. Sarno, Hazardous Site Evaluation Division, Office of Emergency and Remedial Response (WH-548A), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460, Phone (800) 424-9346 (or 382-3000 in the Washington, DC, metropolitan area).

SUPPLEMENTARY INFORMATION:

Table of Contents

I. Introduction

In 1980, Congress enacted the Comprehensive Environmental Response, Compensation, and Liability Act, 41 U.S.C. 9601, *et seq.*, ("CERCLA" or "the Act") in response to the dangers of uncontrolled hazardous waste sites; CERCLA was amended in 1986 with the Superfund Amendments and Reauthorization Act (SARA). To implement CERCLA, the U.S. Environmental Protection Agency (EPA) promulgated the revised National Oil and Hazardous Substances Contingency Plan, 40 CFR Part 300, on July 16, 1982 (47 FR 31180), pursuant to section 105 of CERCLA and Executive Order 12580 (52 FR 2923, January 29, 1987). The National Contingency Plan (NCP), further revised by EPA on September 16, 1985 (50 FR 37624) and November 20, 1985 (50 FR 47912), sets forth the guidelines and procedures needed to respond under CERCLA to releases and threatened releases of harardous substances, pollutants, or contaminants.

Section 105(8)(A) of CERCLA requires that the NCP include criteria for determining priorities among releases or threatened releases for the purpose of taking remedial or removal action. Removal action involves cleanup or other actions that are taken in response to emergency conditions or on a short-term or temporary basis (CERCLA section 101(23)). Remedial actions tend to be long-term in nature and involve response actions that are consistent with a permanent remedy (CERCLA section 101(24)).

Section 105(8)(B) of CERCLA requires that the criteria be used to prepare a list of national priorities among the known releases throughout the United States. These criteria are included in Appendix A of the NCP, *Uncontrolled Hazardous Waste Site Ranking System: A User's Manual* (the "Hazard Ranking System" or "HRS" (47 FR 31219, July 16, 1982). The list, which is Appendix B of the NCP, is the National Priorities List ("NPL"). Section 105(8)(B) also requires that the NPL be revised at least annually. EPA proposes to include on the NPL sites at which there have been releases or threatened releases of hazardous substances, or of "pollutants or contaminants." The discussion below may refer to "releases or threatened releases" simply as "releases," "facilities," or "sites."

Under § 300.68(a) of the NCP, a site must be on the NPL if a remedial action is to be financed by the Hazardous Substances Superfund established under SARA. Federal facility sites are eligible for the NPL pursuant to § 300.66(e)(2) of the NCP (50 FR 4793, November 20, 1985). However, CERCLA section 111(e), as amended by SARA, limits the expenditure of Fund monies at Federally-owned facilities. Federal facility sites are subject to the requirements of section 120 of SARA.

In this notice, EPA is reproposing seven Federal facility sites originally proposed for the NPL on October 15, 1984 (Update #2) or April 10, 1985

(Update #3) (see 49 FR 40320 and 50 FR 14115), and requesting comment on the expansion of an eighth Federal facility site proposed for the NPL on October 15, 1984 (49 FR 40320). This site along with 31 other Federal and 67 non-Federal sites are promulgated elsewhere in today's **Federal Register**. Since this rule is reproposing sites, the current number of sites proposed for, or on, the NPL does not change as a result of this action. Currently, 149 sites are proposed for the NPL and 802 sites are on the final NPL.

II. NPL Update Process

There are three mechanisms for placing sites on the NPL. The principal mechanism is the application of the HRS. The HRS serves as a screening device to evaluate the relative potential of uncontrolled hazardous substances to cause human health or safety problems, or ecological or environmental damage. The HRS takes into account "pathways" to human or environmental exposure in terms of numerical scores. Those sites that score 28.50 or greater on the HRS, and which are otherwise eligible, are proposed for listing. The eight sites discussed in today's rule were proposed based on HRS scores greater than 28.50.

SARA, enacted on October 17, 1986, directs EPA to revise the HRS. The Agency will continue to use the existing HRS until the revised HRS becomes effective. Sites included on the NPL prior to the effective date of the revised HRS will not be reevaluated.

The second mechanism allows States to designate a single site, regardless of its score, as the State top priority. A State top priority site will be listed on the NPL even if it does not qualify due its score. In rare instances, EPA may utilize § 300.66(b)(4) of the NCP (50 FR 37624, September 16, 1985), which allows certain sites with HRS scores below 28.50 to be eligible for the NPL. These sites may qualify for the NPL if all of the following occur:

- The Agency for Toxic Substances and Disease Registry of the U.S. Department of Health and Human Services has issued a health advisory which recommends dissociation of individuals from the release.
- EPA determines that the release poses a significant threat to public health.
- EPA anticipates that it will be more cost-effective to use its remedial authority than to use its removal authority to respond to the release.

States have the primary responsibility for identifying sites, computing HRS scores, and submitting candidate sites to the EPA Regional Offices. EPA Regional Offices conduct a quality control review of the States' candidate sites, and may assist in investigating, monitoring, and scoring sites. Regional Offices may consider candidate sites in addition to those submitted by States. EPA Headquarters conducts further quality assurance audits to ensure accuracy and consistency among the various EPA and States offices participating in the scoring. The Agency then proposes the new sites that meet the listing requirements and solicits public comments on the proposal. Based on these comments and further EPA review, the Agency determines final scores and promulgates those sites that still meet the listing requirements.

An original NPL of 406 sites was promulgated on September 8, 1983 (48 FR 40658). The NPL has since been expanded (see 49 FR 19480, May 8, 1984; 49 FR 37070, September 21, 1984; 50 FR 6320, February 14, 1985; 50 FR 37630, September 16, 1985; and 51 FR 21054, June 10, 1986). On March 7, 1986 (51 FR (7935), EPA published a notice to delete eight sites from the NPL. As of today, the number of final NPL sites is 802. Another 149 sites from previous updates remain proposed for the NPL (see 48 FR 40674, September 8, 1983; 49 FR 40320, October 15, 1984; 50 FR 14115, April 10, 1985; 50 FR 37950, September 18, 1985; 51 FR 21099, June 10, 1986; and 52 FR 2492, January 22, 1987).

III. Public Comment Period, Available Information

This **Federal Register** notice reproposing seven Federal facility sites for the NPL, and expanding the boundaries of an eight Federal facility site currently on the NPL, opens the formal 30-day comment period. Comments may be mailed to Stephen A. Lingle, Director, Hazardous Site Evaluation Division (Attn: NPL Staff), Office of Emergency and Remedial Response (WH-548A), U.S. Environmental Protection Agency, 401 M Street, SW., Washington DC, 20460.

Documents providing EPA's justification for today's actions are available to the public in both the Headquarters public docket and in the appropriate Regional Office's public docket (see **"ADDRESSES"** portion of this notice).

The Headquarters public docket for this proposal contains: HRS score sheets for each site; a documentation record for each site describing the technical retionale for the HRS scores; and a list of documents referenced in the documentation record. The Headquarters public docket is located in EPA Headquarters, Waterside Mall Subbasement, 401, M Street, SW., Washington, DC 20460, and is available for viewing by appointment only from 9:00 a.m. to 4:00 p.m., Monday through Friday excluding holidays. Requests for copies of these HRS documents may be directed to the EPA Headquarters docket office.

The Regional public dockets contain HRS score sheets, documentation records, and a list of reference documents for each site in that Region. These Regional dockets also contain all documents referenced in the documentation record which contain the data EPA relied upon in calculating or evaluating the HRS scores. The reference documents are available for review only in the Regional public dockets. Interested commenters should direct requests for copies of these documents to the appropriate Regional Superfund Branch Office. Documents with some relevance to the scoring of each site, but which were not used as references, are also available in the appropriate EPA Regional office, and may be viewed and copied by arrangement with that office. An informal written request, rather than a formal request, should be the ordinary procedure for obtaining copies of any of these documents.

A statement of EPA's information release policy, describing what information the Agency discloses in response to Freedom of Information Act requests from the public, is printed in the **Federal Register** at 52 FR 5578, February 25, 1987.

EPA considers all comments received during the formal comment period. Comments are placed in the Headquarters docket and, during the comment period, are available to the public only in the Headquarters docket. A complete set of comments pertaining to sites in a particular EPA Region will be available for viewing in the Regional Office docket approximately one week after the comment period closes. Comments received after the close of the comment period will be available in the Headquarters docket and in the appropriate Regional Office docket on an "as received" basis. An informal written request, rather than a formal request, should be the ordinary procedure for obtaining copies of these comments. After considering the comments received during the comment period, EPA will add to the NPL those sites that meet EPA's listing requirements. In past NPL rulemakings, EPA has considered comments received after the close of the comment period. EPA will continue to consider late comments, but only to the extent practicable, prior to final rulemaking.

IV. Eligibility

CERCLA restricts EPA's authority to respond to certain categories of releases of hazardous substances, pollutants or contaminants and expressly excludes some substances, such as petroleum, from its response authority. In addition, as a matter of policy, EPA may choose not to respond to certain types of releases because other authorities can be used to achieve cleanup. Where such other authorities exist and the Federal government can undertake or enforce cleanup pursuant to a particular established program, using the NPL to determine the priority or need for response under CERCLA may not be appropriate. If, however, the Agency later determines that sites not listed as a matter of policy are not being properly addressed, the Agency may consider placing them on the NPL.

The NPL eligibility policies of particular relevance to this proposed rule are discussed below. These policies, as well as other NPL eligibility policies, have been explained in greater detail in earlier rulemakings (51 FR 21054, June 10, 1986).

Releases From Resource Conservation and Recovery Act (RCRA) Sites

When the initial NPL was promulgated, EPA announced certain eligibility policies relating to sites that might qualify for the NPL. One such policy was that units regulated under RCRA—i.e., land disposal units that received hazardous waste after the effective date of the RCRA land disposal regulations (48 FR 40662, September 8, 1983)—would not be included on the NPL. On June 10, 1986 (51 FR 21057), EPA announced several components of a revised policy for placing non-Federal RCRA-related sites on the NPL. This policy was developed as a result of authorities enacted in the Hazardous and Solid Waste Amendments of 1984, which expanded RCRA's authority to enforce cleanup. The Agency stated that, in general, it would defer listing non-Federal sites with releases that can be addressed under the expanded RCRA Subtitle C corrective action authorities. However, the policy states that RCRA sites which fall into one of the following categories would remain eligible for the NPL:

(1) Facilities owned by persons who are bankrupt;

(2) Facilities whose owners/operators have lost interim status under RCRA and there are indications that the owners/operators will be unwilling to undertake corrective action;

(3) Facilities whose owners/operators, determined on a case-by-case basis, have shown an unwillingness to undertake corrective action.

On June 10, 1986 (51 FR 21059), EPA announced that it would consider whether this policy should be applied to Federal facilities in the future.

Federal Facility Releases

CERCLA section 111(e)(3) limits the expenditures of Fund monies for remedial actions at Federally-owned facilities. However CERCLA, as amended by SARA, requires that Federal facilities be subject to, and comply with, the Act in the same manner as any non-governmental facility. Section 120(a) of SARA provides that:

> All guidelines, rules, regulations, and criteria which are applicable to . . . inclusion on the National Priorities List . . . shall also be applicable to facilities which are owned or operated by a department, agency, or instrumentality of the United States in the same manner and to the extent as such guidelines, rules, regulations, and criteria are applicable to other facilities.

Section 120 of SARA also contains requirements for assessing releases at Federal facilities, placing them on the NPL, and effecting remedial actions at those sites that qualify for the NPL.

The Agency considered the effects of applying the non-Federal RCRA policy discussed above to Federal facility sites and determined that a separate policy should be adopted. The majority of Federal facility sites that would be considered for the NPL have RCRA operating units within the Federal facility property boundary. Therefore, applying the current non-Federal RCRA policy to Federal facilities would result in placing very few Federal facility sites on the NPL. Given that Congress anticipated that Federal facility sites would be placed on the NPL, EPA interprets the provisions of section 120 to mean that the criteria to list Federal facility sites should not be more exclusionary than the criteria to list non-Federal sites. In addition, the Agency believes that placing Federal facility sites on the NPL informs the public of potential hazards and Federal government cleanup efforts.

On May 13, 1987 (52 FR 17991), the Agency proposed that Federal facility sites that may be subject to the corrective action authorities of Subtitle C of RCRA be eligible for the NPL (see the **Federal Register** for more details on the development of this policy). The Agency stated that placing these sites on the NPL does not, however, restrict the use of either RCRA corrective action or enforcement authorities to achieve cleanup at Federal facilities. EPA is in the process of developing regulations for corrective action under RCRA and for cleanup of Superfund sites under the NCP. The cleanup goals established in those regulations will be consistent with each other, within the limits of each statute, and it is EPA's expectation that remedies selected and implemented under CERCLA will generally satisfy the RCRA corrective action requirements, and vice versa.

Federal facility sites are placed in a separate section of the NPL. Currently, 32 Federal facility sites are on, and 16 are proposed for, the NPL.

V. Contents of This Proposed Rule

The seven Federal facility sites being reproposed today were originally proposed for the NPL on October 15, 1984 or April 10, 1985. At that time, the Agency's policy was to include only non-regulated land disposal units in the area scored by the HRS when there were RCRA-regulated units located elsewhere on the Federal facility. The Agency has since determined that the HRS scores for these seven Federal facility sites include areas that are regulated under RCRA. As a result of the recently proposed policy for placing Federal facility sites that may be subject to RCRA Subtitle C corrective action authorities on the NPL, the Agency has decided to retain the RCRA units in the HRS score for those sites. This is consistent with the proposed policy. The HRS documents for these sites are available for review in the public docket (see Section III, Public Comment Period, Available Information). Five Federal facility sites being reproposed were first proposed on October 15, 1984:

- Anniston Army Depot (Southeast Industrial Area), Anniston, Alabama
- Dover Air Force Base, Dover, Delaware
- Savanna Army Depot Activity, Savanna, Illinois
- Louisiana Army Ammunition Plant, Doyline, Louisiana
- Air Force Plant #4 (General Dynamics), Fort Worth, Texas

Two were first proposed on April 10, 1985:

- Joliet Army Ammunition Plant (Load-Assembly-Packing Area), Joliet, Illinois
- Letterkenny Army Depot (Property Disposal Office), Franklin County, Pennsylvania

The Federal facilities listing policy on which this reproposal is based is currently proposed. The Agency will consider the comments submitted on the proposed policy, along with the comments submitted on this reproposal,

before placing these Federal facility sites on the NPL.

The eighth Federal facility site discussed in today's proposed rule is the Rocky Mountain Arsenal (RMA) site in Adams County, Colorado. This site was proposed for the NPL on October 15, 1984 (49 FR 40336), and is promulgated elsewhere in today's **Federal Register**. In this rule, the Agency is proposing to expand the RMA site to include a surface impoundment known as Basin F. Basin F is an approximately 93-acre asphalt-lined lagoon located in the northern half of Section 26 of RMA, and includes all associated liquid, sludge, overburden, liner, soils, and groundwater found within the Basin F fenced area.

EPA omitted Basin F from the HRS score in the earlier proposal because the Agency believed that Basin F received hazardous waste after the effective date of the RCRA Subtitle C land disposal regulations. Consistent with the September 8, 1983 policy (to list only non-regulated units), the Agency is now proposing to add Basin F to the NPL site for the following reasons: (1) The Agency learned that Basin F did not, in fact, receive hazardous waste after the effective date of the RCRA land disposal regulations, and (2) a significant portion of the plume of groundwater contamination to which Basin F contributes appears to come from "non-regulated" units at RMA (48 FR 40674, September 8, 1983). The Agency also believes that Basin F would be appropriately included as part of the RMA site under the new policy recently proposed for RCRA-regulated Federal facilities.

EPA is soliciting comments on this proposal to add Basin F to the RMA NPL site. (The HRS documentation package for RMA, including Basin F, is available in the public docket. EPA will only consider comments pertaining to the Basin F expansion. The remainder of the site is promulgated elsewhere in today's **Federal Register**).

VI. Regulatory Impact Analysis

EPA has determined that this proposed rulemaking is not a "major" regulation under Executive Order 12291 because inclusion of a site on the NPL does not itself impose any costs. It does not establish that EPA will necessarily undertake remedial action, nor does it require any action by a private party or determine its liability for site response costs. Costs that arise out of site responses result from site-by-site decisions about what actions to take, not directly from the act of listing itself. In addition, today's proposed rule involves only Federally-owned sites, and section 111(e)(3) of CERCLA prohibits use of the Fund for remedial actions at Federally-owned facilities. In addition, since these sites were previously proposed for the NPL, no additional costs are incurred by today's rulemaking. This action was submitted to the Office of Management and Budget for review.

VII. Regulatory Flexibility Act Analysis

The Regulatory Flexibility Act of 1980 requires EPA to review the impacts of this action on small entities, or certify that the action will not have a significant impact on a substantial number of small entities. By small entities, the Act refers to small businesses, small governmental jurisdictions, and nonprofit organizations.

While proposed modifications to the NPL are considered revisions to the NCP, they are not typical regulatory changes since the revisions do not automatically impose costs. In today's proposed rule, only Federally-owned facilities are affected. Therefore, this proposal will not have a significant impact on a substantial number of small entities.

List of Subjects in 40 CFR Part 300

Air pollution, Chemicals, Hazardous materials, Intergovernmental relations, Natural resources, Oil pollution, Reporting and recordkeeping requirements, Superfund, Waste treatment and disposal, Water pollution control, Water supply.

It is proposed to amend 40 CFR Part 300 as follows:

PART 300—[AMENDED]

1. The authority citation for Part 300 continues to read as follows:

Authority: 42 U.S.C. 9605(8)(B)/CERCLA 105(8)(B).

2. It is proposed to add the following sites by Group, to Appendix B of Part 300.

Note.—In proposed rules, the number in the left column corresponds to the Group number in Appendix B.

Jack W. McGraw,

Deputy Assistant Administration, Office of Solid Waste and Emergency Response.

July 16, 1987.

BILLING CODE 6560-50-M

National Priorities List,
Federal Facilities Sites, Proposed July 1987
(By Group)

NPL Gr 1/	St	Site Name	City/County	Response Category 2/	Cleanup Status 3/
3	AL	Anniston Army Depot (SE Ind Area)	Anniston	R	O
7	IL	Savanna Army Depot Activity	Savanna	R	
8	TX	Air Force Plant #4 (Gen Dynamics)	Fort Worth	R	O
9	PA	Letterkenny Army Depot (PDO Area)	Franklin County	R	
10	DE	Dover Air Force Base	Dover	R	I
10	IL	Joliet Army Ammu Plant (LAP Area)	Joliet	R	
14	LA	Louisiana Army Ammunition Plant	Doyline	R	

Number of Federal Facilities Sites Proposed for Listing: 7

1: Sites are placed in groups (Gr) corresponding to groups of 50 on the final NPL

2: V - Voluntary or negotiated response
F - Federal enforcement
D - Category to be determined
R - Federal and State response
S - State enforcement

3: I - Implementation activity underway, one or more operable units
O - One or more operable units completed; others may be underway
C - Implementation activity completed for all operable units

[FR Doc. 87-16677 Filed 7-21-87; 8:45 am]
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federal register

Wednesday
July 22, 1987

Part IV

Department of Education

34 CFR Part 33

Program Fraud Civil Remedies Act Regulations; Notice of Proposed Rulemaking

DEPARTMENT OF EDUCATION

34 CFR Part 33

Program Fraud Civil Remedies Act Regulations

AGENCY: Department of Education.

ACTION: Notice of Proposed Rulemaking.

SUMMARY: The Secretary proposes new regulations implementing the Program Fraud Civil Remedies Act of 1986 ("PFCRA"). The PFCRA requires the Secretary to issue implementing regulations. The proposed regulations provide in detail what types of fraud and false statement are covered by the PFCRA, and the procedures the Department of Education will use to enforce the PFCRA.

DATE: Comments must be received on or before August 21, 1987.

ADDRESSES: All comments concerning these proposed regulations should be addressed to Sarah L. Kemble, Office of the General Counsel, U.S. Department of Education, Room 4121, 400 Maryland Avenue, SW., Washington, DC, 20202.

FOR FURTHER INFORMATION CONTACT: Sarah L. Kemble, (202) 732–2730.

SUPPLEMENTARY INFORMATION:

(a) Legislative Background

The PFCRA reflects Congressional concern about the large number of unchecked false and fraudulent claims and statements which collectively are causing a substantial loss of Federal funds, and threatening the integrity of Federal programs. It has been practical for the Federal Government to prosecute all these cases through the Federal court system under the applicable pre-existing Federal civil and criminal statutes. This is because it costs the Government more to prosecute the smaller cases in the courts than the Government can recover in criminal and civil penalties. The PFCRA is meant to remedy this situation. It does not create new types of violations, but instead provides for administrative rather than judicial enforcement of the smaller cases, which is not as costly or time consuming.

(b) Violations Covered by PFCRA

The PFCRA statute generally encompasses false or fraudulent claims and statements made by a "person" (as defined) to a Federal agency or a fiscal intermediary of that agency. (A false statement is one accompanied by an express certification or affirmation of its truthfulness. Examples are: a statement on an application for Federal employment or assistance, or on a security clearance form). The statute does not cover any claim or "related group of claims submitted at the same time" for money, property or services in excess of $150,000. A "person" subject to the PFCRA may be an individual, or a corporation or other public or private organization as defined in section 33.2 of these proposed regulations.

(c) Civil Penalties and Assessment

For each false or fraudulent claim, a Federal agency may impose a penalty of up to $5000, and an assessment of up to twice the amount of the claim in violation. The agency may enforce a penalty of up to $5000 for each false statement.

(d) Enforcement Procedure

The Education Department Inspector General investigates suspected violations. Cases are then screened by an agency "reviewing official" who is independent of the Inspector General. After approval of the U.S. Attorney General, the reviewing official refers the case to an impartial administrative law judge for disposition (that is, default judgment, or, in a contested case, a hearing). To ensure due process, the statute and regulations contain detailed provisions on notice and hearing procedure. A person determined by an administrative law judge to be liable for a civil penalty may appeal that decision directly to the Secretary of Education, and may appeal an adverse decision of the Secretary of Education through the Federal court system. The agency is authorized to settle or compromise a case after it has been approved by the U.S. Attorney General for referral to an administrative law judge and before the agency's final decision.

(e) Importance of Consistent Federal Implementation

Since most PFCRA provisions are common to the Federal agencies affected by the statute, development of PFRCA regulations by affected Federal agencies is being coordinated so as to ensure consistency of implementation throughout the Federal Government. Therefore most of these proposed regulations will be similar or identical to regulations being issued by other Federal agencies. The only provisions of these regulations which are considered to be within the discretion of this agency are in the § 33.2 definitions (designation of the Education Department General Counsel as agency "reviewing official" and the requirements that only an attorney may be a "representative" for a party in an agency proceeding).

(f) Significant Interpretations

The following sections of these proposed regulations adopt the governing statute with little or no interpretation: Sections 33.3 (Basis for civil penalties and assessments); 33.5 (Review by reviewing official); 33.6 (Prerequisites for issuing a complaint); 33.14 (a) and (b) (Separation of functions); 33.15 (Ex parte contacts (based on the Administrative Procedure Act)); 33.16 (Disqualification of reviewing official or administrative law judge); 33.40 (Stays ordered by the Department of Justice); 33.46 (Settlement).

The following sections contain significant executive branch interpretation of the governing statute:

Section 33.2 Definitions: "Person." This section has elaborated on the statutory definition of "person" to include a State, political subdivision of a State, municipality, county, district, and Indian tribe.

Section 33.2 Definitions: "Representative." The statute provides that a person charged with a violation has the right to be represented before the agency. As noted above, this section provides that such a representative must be an attorney.

Section 33.4 Investigation. This section provides that an investigating official (the Inspector General) must refer a case to the reviewing official only when he concludes that an action under the PFCRA is warranted.

Section 33.10 Default upon failure to answer. This section provides that a defendant's failure to respond timely to an agency notice of violation will, except in extraordinary circumstances, result in imposition by an administrative law judge of the statutory maximum penalty and assessment.

Section 33.20 Disclosure of documents. The statute requires agency disclosure of certain types of documents to the defendant. This section provides that the resolution of any dispute over access to particular documents must await referral to the administrative law judge.

Section 33.21 Discovery. The statute provides for such discovery as the administrative law judge determines is necessary for a fair and expeditious hearing. This section has provisions intended to prevent abuse of the discovery process.

Section 33.30 The Hearing and burden of proof. This section proposes rules on burden of proof at an agency hearing.

Section 33.31 Determining the amount of penalties and assessments. Under the PFCRA, an administrative law judge has

discretion in setting the amount of penalty and assessment at less than the statutory maximum. This section provides a non-exclusive list of aggravating and mitigating factors to be considered by the judge in exercising that discretion.

Executive Order 12291

These regulations have been reviewed in accordance with Executive Order 12291. They are not classified as major because they do not meet the criteria for major regulations established by that order.

Regulatory Flexibility Act Certification

The Secretary certifies that these proposed regulations would not have a significant impact on a substantial number of small entities. The regulation implements a law enforcement procedure affecting only those entities who are reasonably suspected of fraud.

Invitation to Comment

Interested persons are invited to submit comments and recommendations regarding these proposed regulations.

All comments submitted in response to these proposed regulations will be available for public inspection, during and after the comment period, in Room 4121, 400 Maryland Avenue SW., Washington, DC 20202, between the hours of 8:30 a.m. and 4:00 p.m., Monday through Friday of each week except Federal holidays.

To assist the Department in complying with the specific requirements of Executive Order 12291 for reducing regulatory burden, the Secretary invites comment on whether there may be further opportunities to reduce any regulatory burdens found in these proposed regulations.

List of Subjects in 34 CFR Part 33

Administrative practice and procedure, Fraud, Investigations, Law enforcement, Lawyers, Penalties.

(Catalog of Federal Domestic Assistance Number does not apply)

Dated: July 17, 1987.

William J. Bennett,

Secretary of Education.

The Secretary proposes to amend Title 34 of the Code of Federal Regulations by adding a new Part 33 to read as follows:

PART 33—PROGRAM FRAUD CIVIL REMEDIES ACT OF 1986

Sec.

Authority: 31 U.S.C. 3801–3812, unless otherwise noted.

§ 33.1 Basis and purposes.

(a) *Basis.* This part implements the Program Fraud Civil Remedies Act of 1986, Pub. L. 99–509, 6101 through 6104, 100 Stat. 16674 (October 21, 1986), to be codified at 31 U.S.C. 3801 through 3812. 31 U.S.C. 3809 requires each Federal department head to promulgate regulations necessary to implement the provisions of the statute.

(Authority: 31 U.S.C. 3809)

(b) *Purpose.* This part—

(1) Establishes administrative procedures for imposing civil penalties and assessments against persons who make, submit, or present, or cause to be made, submitted, or presented, false, fictitious, or fraudulent claims or written statements to the Department or to its agents; and

(2) Specifies the hearing and appeal rights of persons subject to allegations of liability for those penalties and assessments.

(Authority: 31 U.S.C. 3809)

§ 33.2 Definitions.

As used in this part:

"ALJ" means Administrative Law Judge in the Department appointed pursuant to 5 U.S.C. 3105 or detailed to the Department pursuant to 5 U.S.C. 3344.

(Authority: 31 U.S.C. 3801(a)(7)(A))

"Benefits" means, except as the context otherwise requires, anything of value, including but not limited to any advantage, preference, privilege, license, permit, favorable decision, ruling, status, or loan guarantee.

(Authority: 31 U.S.C. 3809)

"Claim" means any request, demand, or submission—

(a) Made to the Department for property, services, or money (including money representing grants, cooperative agreements, loans, insurance, or benefits);

(b) Made to a recipient of property, services, or money from the Department or to a party to a contract or agreement with the Department—

(1) For property or services if the United States—

(i) Provided the property or services;

(ii) Provided any portion of the funds for the purchase of the property or services; or

(iii) Will reimburse the recipient or party for the purchase of the property or services; or

(2) For the payment of money (including money representing grants, cooperative agreements, loans, insurance, or benefits) if the United States—

(i) Provided any portion of the money requested or demanded; or

(ii) Will reimburse the recipient or party for any portion of the money paid on that request or demand;

(iii) Will guarantee or reinsure any portion of a loan made by the party; or

(c) Made to the Department which has the effect of decreasing an obligation to pay or account for property, services, or money.

(Authority: 31 U.S.C. 3801(a)(3))

"Complaint" means the administrative complaint served by the reviewing official on the defendant under § 33.7

(Authority: 31 U.S.C. 3809)

"Defendant" means any person alleged in a complaint under § 33.7 to be liable for a civil penalty or assessment under § 33.3.

(Authority: 31 U.S.C. 3809)

"Department" means the United States Department of Education.

(Authority: 31 U.S.C. 3809)

"Department head" means the Secretary or Under Secretary of the United States Department of Education.

(Authority: 31 U.S.C. 3801(a)(2))

"Government" means the United States Government.

(Authority: 31 U.S.C. 3809)

"Individual" means a natural person.

(Authority: 31 U.S.C. 3809)

"Initial decision" means the written decision of the ALJ required by § 33.10 or § 33.37, and includes a revised initial decision issued following a remand or a motion for reconsideration.

(Authority: 31 U.S.C. 3803(h))

"Investigating official" means the Inspector General of the Department or an officer or employee of the Office of the Inspector General designated by the Inspector General and serving in a position for which the rate of basic pay is not less than the minimum rate of basic pay for Grade GS-16 under the General Schedule.

(Authority: 31 U.S.C. 3801(4)(A)(i))

"Knows or has reason to know," means that a person, with respect to a claim or statement—

(a) Has actual knowledge that the claim or statement is false, fictitious, or fraudulent;

(b) Acts in delibrate ignorance of the truth or falsity of the claim or statement; or

(c) Acts in reckless disregard of the truth or falsity of the claim or statement.

(Authority: 31 U.S.C. 3801(5))

"Makes" includes the terms presents, submits, and causes to be made, presented, or submitted.

(Authority: 31 U.S.C. 3802(a))

"Person" means any individual, partnership, corporation, association, private organization, State, political subdivision of a State, municipality, county, district, and Indian tribe.

(Authority: 31 U.S.C. 3801(a)(6))

"Representative" means an attorney who is a member in good standing of the bar of any State, territory, possession of the United States, the District of Columbia, or the Commonwealth of Puerto Rico.

(Authority: 31 U.S.C. 3803(g)(2)(F))

"Reviewing official" means the General Counsel of the Department or his or her designee who is—

(a) Not subject to supervision by, or required to report to, the investigating official; and

(b) Not employed in the organizational unit of the Department in which the investigating official is employed.

(Authority: 31 U.S.C. 3801(8))

"Statement" means any representation, certification, affirmation, document, record, or accounting or bookkeeping entry made—

(a) With respect to a claim or to obtain the approval or payment of a claim (including relating to eligibility to make a claim); or

(b) With respect to (including relating to eligibility for)—

(1) A contract with, or a bid or proposal for a contract with; or

(2) A grant, cooperative agreement, loan, or benefit from;

the Department, or any State, political subdivision of a State, or other party, if the United States Government provides any portion of the money or property under the contract or for the grant, loan, cooperative agreement, or benefit, or if the Government will reimburse or reinsure the State, political subdivision, or party for any portion of the money or property under the contract or for the grant, cooperative agreement, loan, or benefit.

(Authority: 31 U.S.C. 3801(9))

§ 33.3 Basis for civil penalties and assessments.

(a) *Claims.* (1) Except as provided in paragraph (c) of this section, any person who makes a claim that the person knows or has reason to know—

(i) Is false, fictitious, or fraudulent;

(ii) Includes or is supported by any written statement which asserts a material fact which is false, fictitious, or fraudulent;

(iii) Includes or is supported by any written statement that—

(A) Omits a material fact;

(B) Is false, fictitious, or fraudulent as a result of such omission; and

(C) Is a statement in which the person making such statement has a duty to include such material fact; or

(iv) Is for payment for the provision of property or services which the person has not provided as claimed, shall be subject, in addition to any other remedy that may be prescribed by law, to a civil penalty of not more than $5,000 for each claim.

(2) Each voucher, invoice, claim form, or other individual request or demand for property, services, or money constitutes a separate claim.

(3) A claim shall be considered made to the Department, a recipient, or party when that claim is a actually made to an agent, fiscal intermediary, or other entity, including any State or political subdivision thereof, acting for or on behalf of the Department or a recipient, or party.

(4) Each claim for property, services, or money is subject to a civil penalty regardless of whether the property, services, or money is actually delivered or paid.

(5) If the Government has made any payment (including transferred property or provided services) on a claim, a person subject to a civil penalty under paragraph (a)(1) of this section shall also be subject to an assessment of not more than twice the amount of that claim or that portion thereof that is determined to be in violation of paragraph (a)(1) of this section. The assessment is in lieu of damages sustained by the Government because of that claim.

(Authority: 31 U.S.C. 3802(a)(1))

(b) *Statements.* (1) Any person who makes a written statement that—

(i) The person knows or has reason to know—

(A) Asserts a material fact which is false, fictitious, or fraudulent; or

(B) Is false, fictitious, or fraudulent because it omits a material fact that the person making the statement has a duty to include in the statement; and

(ii) Contains or is accompanied by an express certification or affirmation of the truthfulness and accuracy of the contents of the statement, shall be subject, in addition to any other remedy that may be prescribed by law, to a civil penalty of not more than $5,000 for each statement.

(2) Each written representation, certification, or affirmation constitutes a separate statement.

(3) A statement shall be considered made to the Department when the statement is actually made to an agent, fiscal intermediary, or other entity, including any State or political subdivison thereof, acting for or on behalf of the Department.

(Authority: 31 U.S.C. 3802(a)(2))

(c) No proof of specific intent to defraud is required to establish liability under this section.

(Authority: 31 U.S.C. 3801(5))

(d) In any case in which it is determined that more than one person is

liable for making a claim or statement under this section, each of those persons may be held liable for a civil penalty under this section.

(Authority: 31 U.S.C. 3802(a))

(e) In any case in which it is determined that more than one person is liable for making a claim under this section of which the Government has made payment (including transferred property or provided services), an assessment may be imposed against any of those persons or jointly and severally against any of those persons.

(Authority: 31 U.S.C. 3802(a)(1); 3809)

§ 33.4 Investigation.

(a) If an investigating official concludes that a subpoena pursuant to the authority conferred by 31 U.S.C. 3604(a) is warranted—

(1) The subpoena so issued must notify the person to whom it is addressed of the authority under which the subpoena is issued and must identify the records or documents sought;

(2) He or she may designate a person to act on his or her behalf to receive the documents sought; and

(3) The person receiving the subpoena is required to tender to the investigating official or the person designated to receive the documents a certification that the documents sought have been produced, or that the documents are not available and the reasons therefor, or that the documents, suitably identified, have been withheld based upon the assertion of an identified privilege.

(Authority: 31 U.S.C. 3804(a))

(b) If the investigating official concludes that an action under the Program Fraud Civil Remedies Act may be warranted, the investigating official shall submit a report containing the findings and conclusions of the investigation to the reviewing official.

(Authority: 31 U.S.C. 3803(a)(1))

(c) Nothing in this section shall preclude or limit an investigating official's discretion to refer allegations directly to the Department of Justice for suit under the False Claims Act or other civil relief, or to preclude or limit that official's discretion to defer or postpone a report or referral to avoid interference with a criminal investigation or prosecution.

(Authority: 31 U.S.C. 3809)

(d) Nothing in this section modifies any responsibility of an investigating official to report violations of criminal law to the Attorney General.

(Authority: 31 U.S.C. 3803(a)(1))

§ 33.5 Review by the reviewing official.

(a) If, based on the report of the investigating official under § 33.4(b), the reviewing official determines that there is adequate evidence to believe that a person is liable under § 33.3 of this part, the reviewing official transmits to the Attorney General a written notice of the reviewing officials's intention to issue a complaint under § 33.7.

(b) The notice must include—

(1) A statement of the reviewing official's reasons for issuing a complaint;

(2) A statement specifying the evidence that supports the allegations of liability;

(3) A description of the claims or statements upon which the allegations of liability are based;

(4) An estimate of the amount of money or the value of property, services, or other benefits requested or demanded in violation of § 33.3;

(5) A statement of any exculpatory or mitigating circumstances that may relate to the claims or statements known by the reviewing official or the investigating official; and

(6) A statement that there is a reasonable prospect of collecting an appropriate amount of penalties and assessments. Such a statement may be based upon information then known or an absence of any information indicating that the person may be unable to pay such an amount.

(Authority: 31 U.S.C. 3803(a)(2); 3809(2))

§ 33.6 Prerequisites for issuing a complaint.

(a) The reviewing official may issue a complaint under § 33.7 only if—

(1) The Department of Justice approves the issuance of a complaint in a written statement described in 31 U.S.C. 3803(b)(1), and

(2) In the case of allegations of liability under § 33.3(a) with respect to a claim, the reviewing official determines that, with respect to that claim or a group of related claims submitted at the same time the claim is submitted (as defined in paragraph (b) of this section), the amount of money or the value of property or services demanded or requested in violation of 3(a) does not exceed $150,000.

(b) For the purposes of this section, a related group of claims submitted at the same time shall include only those claims arising from the same transaction (*e.g.*, grant, cooperative agreement, loan, application, or contract) that are submitted simultaneously as part of a single request, demand, or submission.

(c) Nothing in this section shall be construed to limit the reviewing official's authority to join in a single complaint against a person claims that are unrelated or were not submitted simultaneously, regardless of the amount of money or the value of property or services demanded or requested.

(Authority: 31 U.S.C. 3803 (b), (c))

§ 33.7 Complaint.

(a) On or after the date the Department of Justice approves the issuance of a complaint in accordance with 31 U.S.C. 3803(b)(1), the reviewing official may serve a complaint on the defendant, as provided in § 33.8.

(b) The complaint shall state—

(1) The allegations of liability against the defendant, including the statutory basis for liability, an identification of the claims or statements that are the basis for the alleged liability, and the reasons why liability allegedly arises from such claims or statements;

(2) The maximum amount of penalties and assessments for which the defendant may be held liable;

(3) Instructions for filing an answer to request a hearing, including a specific statement of the defendant's right to request a hearing by filing an answer and to be represented by a representative; and

(4) That failure to file an answer within 30 days of service of the complaint will result in the imposition of the maximum amount of penalties and assessments without right to appeal.

(c) At the same time the reviewing official serves the complaint, he or she shall serve the defendant with a copy of these regulations.

(Authority: 31 U.S.C. 3803(a))

§ 33.8 Service of complaint.

(a) Service of a complaint must be made by certified or registered mail or by delivery in any manner authorized by Rule 4(d) of the Federal Rules of Civil Procedure.

(b) Proof of service, stating the name and address of the person on whom the complaint was served, and the manner and date of service, may be made by—

(1) Affidavit of the individual making service;

(2) An acknowledged United States Postal Service return receipt card; or

(3) Written acknowledgment of the defendant or his representative.

(Authority: 31 U.S.C. 3802(d))

§ 33.9 Answer.

(a) The defendant may request a hearing by filing an answer with the reviewing official within 30 days of service of the complaint. An answer is deemed to be a request for hearing.

(b) In the answer, the defendant—

(1) Shall admit or deny each of the allegations of liability made in the complaint;

(2) Shall state any defense on which the defendant intends to rely;

(3) May state any reasons why the defendant contends that the penalties and assessments should be less than the statutory maximum; and

(4) Shall state the name, address, and telephone number of the person authorized by the defendant to act as defendant's representative, if any.

(Authority: 31 U.S.C 3803(d)(2), 3809)

§ 33.10 Default upon failure to file an answer.

(a) If the defendant does not file an answer within the time prescribed in § 33.8(a), the reviewing official may refer the complaint to the ALJ.

(b) Upon the referral of the complaint, the ALJ shall promptly serve on defendant in the manner prescribed in § 33.8, a notice that an initial decision will be issued under this section.

(c) If the defendant fails to answer, the ALJ shall assume the facts alleged in the complaint to be true and, if such facts establish liability under § 33.3, the ALJ shall issue an initial decision imposing the maximum amount of penalties and assessments allowed under the statute.

(d) Except as otherwise provided in this section, by failing to file a timely answer, the defendant waives any right to further review of the penalties and assessments imposed under paragraph (c) of this section, and the initial decision shall become final and binding upon the parties 30 days after it is issued.

(e) If, before such an initial decision becomes final, the defendant files a motion with the ALJ seeking to reopen on the grounds that extraordinary circumstances prevented the defendant from filing an answer, the initial decision shall be stayed pending the ALJ's decision on the motion.

(f) If, on such motion, the defendant can demonstrate extraordinary circumstances excusing the failure to file a timely answer, the ALJ shall withdraw the initial decision in paragraph (c) of this section, if such a decision has been issued, and shall grant the defendant an opportunity to answer the complaint.

(g) A decision of the ALJ denying a defendant's motion under paragraph (e) of this section is not subject to reconsideration under § 33.38.

(h) The defendant may appeal to the Department head the decision denying a motion to reopen by filing a notice of appeal with the Department head within 15 days after the ALJ denies the motion. The timely filing of a notice of appeal shall stay the initial decision until the Department head decides the issue.

(i) If the defendant files a timely notice of appeal with the Department head, the ALJ shall forward the record of the proceeding to the Department head.

(j) The Department head decides expeditiously whether extraordinary circumstances excuse the defendant's failure to file a timely answer based solely on the record before the ALJ.

(k) If the Department head decides that extraordinary circumstances excused the defendant's failure to file a timely answer, the Department head remands the case to the ALJ with instructions to grant the defendant an opportunity to answer.

(l) If the Department head decides that the defendant's failure to file a timely answer is not excused, the Department head reinstates the initial decision of the ALJ, which becomes final and binding upon the parties 30 days after the Department head issues that decision.

(Authority: 31 U.S.C. 3809)

§ 33.11 Referral of complaint and answer to the ALJ.

Upon receipt of an answer, the reviewing official shall file the complaint and answer with the ALJ.

(Authority: 31 U.S.C. 3803(d)(2); 3809)

§ 33.12 Notice of hearing.

(a) When the ALJ receives the complaint and answer, the ALJ shall promptly serve a notice of hearing upon the defendant in the manner prescribed by § 33.8. At the same time, the ALJ shall send a copy of the notice to the representative for the Government.

(b) The notice must include—

(1) The tentative time and place, and the nature of the hearing;

(2) The legal authority and jurisdiction under which the hearing is to be held;

(3) The matters of fact and law to be asserted;

(4) A description of the procedures for the conduct of the hearing;

(5) The name, address, and telephone number of the representative of the Government and of the defendant, if any; and

(6) Such other matters as the ALJ deems appropriate.

(Authority: 31 U.S.C. 3803(g)(2)(A))

§ 33.13 Parties to the hearing.

(a) The parties to the hearing are the defendant and the Department.

(b) Pursuant to 31 U.S.C. 3730(c)(5), a private plaintiff under the False Claims Act may participate in these proceedings to the extent authorized by the provisions of that Act.

(Authority: 31 U.S.C. 3803(g)(2))

§ 33.14 Separation of functions.

(a) The investigating official, the reviewing official, and any employee or agent of the Department who takes part in investigating, preparing, or presenting a particular case may not, in such case or a factually related case—

(1) Participate in the hearing as the ALJ;

(2) Participate or advise in the initial decision or the review of the initial decision by the Department head, except as a witness or a representative in public proceedings; or

(3) Make the collection of penalties and assessments under 31 U.S.C. 3806.

(b) The ALJ may not be responsible to, or subject to the supervision or direction of, the investigating official or the reviewing official.

(c) Except as provided in paragraph (a) of this section, the representative for the Government may be employed anywhere in the Department, including in the offices of either the investigating official or the reviewing official.

(Authority: 31 U.S.C. 3809(1)(2))

§ 33.15 Ex parte contacts.

No party or person (except employees of the ALJ's office) may communicate in any way with the ALJ on any matter at issue in a case, unless on notice and opportunity for all parties to participate. This provision does not prohibit a person or party from inquiring about the status of a case or asking routine questions concerning administrative functions or procedures.

(Authority: 31 U.S.C. 3803(g)(1)(A))

§ 33.16 Disqualification of reviewing official or ALJ.

(a) A reviewing official or ALJ in a particular case may disqualify himself or herself at any time.

(b) A party may file with the ALJ a motion for disqualification of a reviewing official or an ALJ. That motion must be accompanied by an affidavit alleging personal bias or other reason for disqualification.

(c) The motion and affidavit must be filed promptly upon the party's discovery of reasons requiring disqualification, or the objections are deemed waived.

(d) The affidavit must state specific facts that support the party's belief that personal bias or other reason for disqualification exists and the time and circumstances of the party's discovery of those facts. It must be accompanied by a certificate of the representative of record that it is made in good faith.

(e) Upon the filing of the motion and affidavit, the ALJ shall not proceed further in the case until he or she resolves the matter of disqualification in accordance with paragraph (f) of this section.

(f)(1) If the ALJ determines that a reviewing official is disqualified, the ALJ shall dismiss the complaint without prejudice.

(2) If the ALJ disqualifies himself or herself, the case must be reassigned promptly to another ALJ.

(3) If the ALJ denies a motion to disqualify, the Department head may determine the matter only as part of his or her review of the initial decision upon appeal, if any.

(Authority: 31 U.S.C. 3803(g)(2)(G))

§ 33.17 Rights of parties.

Except as otherwise limited by this part, all parties may—

(a) Be accompanied, represented, and advised by a representative as defined in § 33.2;

(b) Participate in any conference held by the ALJ;

(c) Conduct discovery;

(d) Agree to stipulations of fact or law, which shall be made part of the record;

(e) Present evidence relevant to the issues at the hearing;

(f) Present and cross-examine witnesses;

(g) Present oral arguments at the hearing as permitted by the ALJ; and

(h) Submit written briefs and proposed findings of fact and conclusions of law after the hearing.

(Authority: 31 U.S.C. 3803(g)(2)(E), (F), (3)(B)(ii))

§ 33.18 Authority of the ALJ.

(a) The ALJ shall conduct a fair and impartial hearing, avoid delay, maintain order, and assure that a record of the proceeding is made.

(b) The ALJ has the authority to—

(1) Set and change the date, time, and place of the hearing upon reasonable notice to the parties;

(2) Continue or recess the hearing in whole or in part for a reasonable period of time;

(3) Hold conferences to identify or simplify the issues, or to consider other matters that may aid in the expeditious disposition of the proceeding;

(4) Administer oaths and affirmations;

(5) Issue subpoenas requiring the attendance of witnesses and the production of documents at depositions or at hearings;

(6) Rule on motions and other procedural matters;

(7) Regulate the scope and timing of discovery;

(8) Regulate the course of the hearing and the conduct of representatives and parties;

(9) Examine witnesses;

(10) Receive, rule on, exclude, or limit evidence;

(11) Upon motion of a party, take official notice of facts;

(12) Upon motion of a party, decide cases, in whole or in part, by summary judgment where there is no disputed issue of material fact;

(13) Conduct any conference, argument, or hearing on motions in person or by telephone; and

(14) Exercise such other authority as is necessary to carry out the responsibilities of the ALJ under this part.

(c) The ALJ does not have the authority to decide upon the validity of Federal statutes or regulations.

(Authority: 31 U.S.C. 3803(g))

§ 33.19 Prehearing conferences.

(a) The ALJ may schedule prehearing conferences as appropriate.

(b) Upon the motion of any party, the ALJ shall schedule at least one prehearing conference at a reasonable time in advance of the hearing.

(c) The ALJ may use prehearing conferences to discuss the following:

(1) Simplification of the issues;

(2) The necessity or desirability of amendments to the pleadings, including the need for a more definite statement;

(3) Stipulations, admissions of fact or as to the contents and authenticity of documents;

(4) Whether the parties can agree to submission of the case on a stipulated record;

(5) Whether a party chooses to waive appearance at an oral hearing and to submit only documentary evidence (subject to the objection of other parties) and written argument;

(6) Limitation of the number of witnesses;

(7) Scheduling dates for the exchange of witness lists and of proposed exhibits;

(8) Discovery;

(9) The time and place for the hearing; and

(10) Such other matters as many tend to expedite the fair and just disposition of the proceedings.

(d) The ALJ may issue an order containing all matters agreed upon by the parties or ordered by the ALJ at a prehearing conference.

(Authority: 31 U.S.C. 3803(g))

§ 33.20 Disclosure of documents.

(a) Upon written request to the reviewing official, the defendant may review any relevant and material documents, transcripts, records, and other materials that relate to the allegations set out in the complaint and upon which the findings and conclusions of the investigating official under § 33.4(b) are based, unless such documents are subject to a privilege under Federal law. Upon payment of fees for duplications, the defendant may obtain copies of such documents.

(b) Upon written request to the reviewing official, the defendant also may obtain a copy of all exculpatory information in the possession of the reviewing official or investigating official relating to the allegations in the complaint, even if it is contained in a document that would otherwise be privileged. If the document would otherwise be privileged, only that portion containing exculpatory information must be disclosed.

(c) The notice sent to the Attorney General from the reviewing official as described in § 33.5 is not discoverable under any circumstances.

(d) The defendant may file a motion to compel disclosure of the documents subject to the provisions of this section. Such a motion may only be filed with the ALJ following the filing of an answer pursuant to § 33.9.

(Authority: 31 U.S.C. 3803(g)(3)(B)(ii), 3803(e))

§ 33.21 Discovery.

(a) The following types of discovery are authorized:

(1) Requests for production of documents for inspection and copying;

(2) Requests for admissions of the authenticity of any relevant document or of the truth of any relevant fact;

(3) Written interrogatories; and

(4) Depositions.

(b) For the purpose of this section and §§ 33.22 and 33.23, the term "documents" includes information, documents, reports, answers, records, accounts, papers, and other data and documentary evidence. Nothing contained herein shall be interpreted to require the creation of a document.

(c) Unless mutually agreed to by the parties, discovery is available only as ordered by the ALJ. The ALJ shall regulate the timing of discovery.

(d) *Motions for discovery.* (1) A party seeking discovery may file a motion with the ALJ. Such a motion shall be accompanied by a copy of the requested discovery, or in the case of depositions, a summary of the scope of the proposed deposition.

(2) Within ten days of service, a party may file an opposition to the motion and/or a motion for protective order as provided in § 33.24.

(3) The ALJ may grant a motion for discovery only if he finds that the discovery sought—

(i) Is necessary for the expeditious, fair, and reasonableness of the issues;

(ii) Is not unduly costly or burdensome;

(iii) Will not unduly delay the proceeding; and

(iv) Does not seek privileged information.

(4) The burden of showing that discovery should be allowed is on the party seeking discovery.

(5) The ALJ may grant discovery subject to a protective order under § 33.24.

(Authority: 31 U.S.C. 3802(a)(3)(B)(ii)(e))

(e) *Depositions.* (1) If a motion for deposition is granted, the ALJ shall issue a subpoena for the deponent, which may require the deponent to produce documents. The subpoena shall specify the time and place at which the deposition will be held.

(2) The party seeking to depose shall serve the subpoena in the manner prescribed in § 33.8.

(3) The deponent may file with the ALJ a motion to quash the subpoena or a motion for a protective order within ten days of service.

(4) The party seeking to depose shall provide for the taking of a verbatim transcript of the deposition, which it shall make available to all other parties for inspection and copying.

(f) Each party shall bear its own costs of discovery.

(Authority: 31 U.S.C. 3803(g)(3)(B)(ii))

§ 33.22 Exchange of witness lists, statements and exhibits.

(a) At least 15 days before the hearing or at such other time as may be ordered by the ALJ, the parties shall exchange witness lists, copies of prior statements of proposed witnesses, and copies of proposed hearing exhibits, including copies of any written statements that the party intends to offer in lieu of live testimony in accordance with § 33.33(b). At the time the above documents are exchanged, any party that is permitted by the ALJ to rely on the transcript of deposition testimony in lieu of live testimony at the hearing, shall provide each party with a copy of the specific pages of such transcript it intends to introduce.

(b) If a party objects, the ALJ shall not admit into evidence the testimony of any witness whose name does not appear on the witness list or any exhibit not provided to the opposing party as provided above unless the ALJ finds good cause for the failure or that there is no prejudice to the objecting party.

(c) Unless another party objects within the time set by the ALJ, documents exchanged in accordance with paragraph (a) of this section are deemed to be authentic for the purpose of admissibility at the hearing.

(Authority: 31 U.S.C. 3803(g)(2))

§ 33.23 Subpoenas for attendance at hearing.

(a) A party wishing to procure the appearance and testimony of any individual at the hearing may request that the ALJ issue a subpoena.

(b) A subpoena requiring the attendance and testimony of an individual may also require the individual to produce documents at the hearing.

(c) A party seeking a subpoena shall file a written request therefor not less than 15 days before the date fixed for the hearing unless otherwise allowed by the ALJ for good cause shown. The request must specify any documents to be produced and must designate the witnesses and describe their address and location with sufficient particularity to permit the witnesses to be found.

(d) The subpoena must specify the time and place at which a witness is to appear and any documents the witness is to produce.

(e) The party seeking the subpoena shall serve it in the manner prescribed in § 33.8. A subpoena on a party or upon an individual under the control of a party may be served by first class mail.

(f) A party or the individual to whom the subpoena is directed may file with the ALJ a motion to quash the subpoena within ten days after service or on or before the time specified in the subpoena for compliance if it is less than ten days after service.

(Authority: 31 U.S.C. 3804(b))

§ 33.24 Protective order.

(a) A party or a prospective witness or deponent may file a motion for a protective order with respect to discovery sought by an opposing party or with respect to the hearing, seeking to limit the availability or disclosure of evidence.

(b) In issuing a protective order, the ALJ may take any order which justice requires to protect a party or person from annoyance, embarrassment, oppression, or undue burden or expense, including one or more of the following:

(1) That the discovery not be had;

(2) That the discovery may be had only on specified terms and conditions, including a designation of the time or place;

(3) That the discovery may be had only through a method of discovery other than that requested;

(4) That certain matters not be inquired into, or that the scope of discovery be limited to certain matters;

(5) That the discovery be conducted with no one present except persons designated by the ALJ;

(6) That the contents of discovery or evidence be sealed;

(7) That a deposition after being sealed be opened only by order of the ALJ;

(8) That the trade secret or other confidential research, development, commercial information, or facts pertaining to any criminal investigation, proceeding, or other administrative investigation not be disclosed or be disclosed only in a designated way; or

(9) That the parties simultaneously file specified documents or information enclosed in sealed envelope to be opened as directed by the ALJ.

(Authority: 31 U.S.C. 3803(g)(3)(B)(ii))

§ 33.25 Fees.

The party requesting a subpoena shall pay the cost of the fees and mileage of any witness subpoenaed in the amounts that would be payable to a witness in a proceeding in United States District Court. A check for witness fees and mileage shall accompany the subpoena when served, except that when a subpoena is issued on behalf of the authority, a check for witness fees and mileage need not accompany the subpoena.

(Authority: 31 U.S.C. 3804(b))

§ 33.26 Form, filing and service of papers.

(a) *Form.* (1) Documents filed with the ALJ shall include an original and two copies.

(2) Every pleading and paper filed in the proceeding shall contain a caption setting for the title of the action, the case number assigned by the ALJ, and a designation of the paper (*e.g.*, motion to quash subpoena).

(3) Every pleading and paper shall be signed by, and shall contain the address and telephone number of the party or the person on whose behalf the paper was filed, or his or her representative.

(4) Papers are considered filed when they are mailed. Date or mailing may be established by a certificate from the party or its representative or by proof that the document was sent by certified or registered mail.

(b) *Service.* A party filing a document with the ALJ shall, at the time of filing, serve a copy of such document on every other party. Service upon any party of any document other than the complaint or notice of hearing shall be made by delivering or mailing a copy to the party's last known address. When a

party is represented by a representative, service shall be made upon such representative in lieu of the actual party.

(c) *Proof of service.* A certificate of the individual serving the document by personal delivery or by mail, setting forth the manner of service, shall be proof of service.

(Authority: 31 U.S.C. 3803(b)(3)(A))

§ 33.27 Computation of time.

(a) In computing any period of time under this part or in an order issued thereunder, the time begins with the day following the act, event, or default, and include the last day of the period, unless it is a Saturday, Sunday, or legal holiday observed by the Federal Government, in which event it includes the next business day.

(b) When the period of time allowed is less than seven days, intermediate Saturdays, Sundays, and legal holidays observed by the Federal Government shall be excluded from the computation.

(c) If a document has been served or issued by mail, an additional five days is added to the time permitted for any response.

(Authority: 31 U.S.C. 3809)

§ 33.28 Motions.

(a) Any application to the ALJ for an order or ruling must be by motion. Motions must state the relief sought, the authority relied upon, and the facts alleged, and must be filed with the ALJ and served on all other parties.

(b) Except for motions made during a prehearing conference or at the hearing, all motions must be in writing. The ALJ may require that oral motions be reduced to writing.

(c) Within 15 days after a written motion is served, or such other time as may be fixed by the ALJ, any party may file a response to the motion.

(d) The ALJ may not grant a written motion before the time for filing responses to the motion has expired, except upon consent of the parties or following a hearing on the motion, but may overrule or deny the motion without awaiting a response.

(e) The ALJ shall make a reasonable effort to dispose of all outstanding motions prior to the beginning of the hearing.

(Authority: 31 U.S.C. 3803(g)(3)(A))

§ 33.29 Sanctions.

(a) The ALJ may sanction a person, including any party or representative for—

(1) Failing to comply with an order, rule, or procedure governing the proceeding;

(2) Failing to prosecute or defend an action; or

(3) Engaging in other misconduct that interferes with the speedy, orderly, or fair conduct of the hearing.

(b) Any sanction, including but not limited to those listed in paragraphs (c), (d), and (e) of this section must reasonably relate to the severity and nature of the failure or misconduct.

(c) If a party fails to comply with an order, including an order for taking a deposition, the production of evidence within the party's control, or a request for admission, the ALJ may—

(1) Draw an inference in favor of the requesting party with regard to the information sought;

(2) In the case of requests for admission, deem each matter of which an admission is requested to be admitted;

(3) Prohibit the party failing to comply with the order from introducing evidence concerning, or otherwise relying upon testimony relating to the information sought; and

(4) Strike any part of the pleadings or other submissions of the party failing to comply with such request.

(d) If a party fails to prosecute or defend an action under this part commenced by service of a notice of hearing, the ALJ may dismiss the action or may issue an initial decision imposing penalties and assessments.

(e) The ALJ may refuse to consider any motion, request, response, brief or other document which is not filed in a timely fashion.

(Authority: 31 U.S.C. 3803(g)(2))

§ 33.30 The hearing and burden of proof.

(a) The ALJ shall conduct a hearing on the record in order to determine whether the defendant is liable for a civil penalty or assessment under § 33.3 and, if so, the appropriate amount of any such civil penalty or assessment considering any aggravating or mitigating factors.

(b) The Department shall provide defendant's liability and any aggravating factors by a preponderance of the evidence.

(c) The defendant shall provide any affirmative defenses and any mitigating factors by a preponderance of the evidence.

(d) The hearing must be open to the public unless otherwise ordered by the ALJ for good cause shown.

(Authority: 31 U.S.C. 3803(f), (g)(2))

§ 33.31 Determining the amount of penalties and assessments.

(a) In determining an appropriate amount of civil penalties and assessments, the ALJ and the Department head, upon appeal, evaluate any circumstances that mitigate or aggravate the violation and articulate in their opinions the reasons that support the penalties and assessments they impose. Because of the intangible costs of fraud, the expense of investigating fraudulent conduct, and the need to deter others who might be similarly tempted, ordinarily double damages and a significant civil penalty is imposed.

(b) Although not exhaustive, the following factors are among those that may influence the ALJ and the Department head in determining the amount of penalties and assessments to impose with respect to the misconduct (*i.e.*, the false, fictitious, or fraudulent claims or statements) charged in the complaint:

(1) The number of false, fictitious, or fraudulent claims or statements.

(2) The time period over which such claims or statements were made;

(3) The degree of the defendant's culpability with respect to the misconduct;

(4) The amount of money or the value of the property, services, or benefit falsely claimed;

(5) The value of the Government's actual loss as a result of the misconduct, including foreseeable consequential damages and the costs of investigation;

(6) The relationship of the amount imposed as civil penalties to the amount of the Government's loss;

(7) The potential or actual impact of the misconduct upon national defense, public health or safety, or public confidence in the management of Government programs and operations, including particularly the impact on the intended beneficiaries of such programs;

(8) Whether the defendant has engaged in a pattern of the same or similar misconduct;

(9) Whether the defendant attempted to conceal the misconduct;

(10) The degree to which the defendant has involved others in the misconduct or in concealing it;

(11) Where the misconduct of employees or agents is imputed to the defendant, the extent to which the defendant's practices fostered or attempted to preclude such misconduct;

(12) Whether the defendant cooperated in or obstructed an investigation of the misconduct;

(13) Whether the defendant assisted in identifying and prosecuting other wrongdoers;

(14) The complexity of the program or transaction, and the degree of the defendant's sophistication with respect to it, including the extent of the defendant's prior participation in the program or in similar transactions;

(15) Whether the defendant has been found, in any criminal, civil, or administrative proceeding to have engaged in similar misconduct or to have dealt dishonestly with the Government of the United States or of a State, directly or indirectly; and

(16) The need to deter the defendant and others from engaging in the same or similar misconduct.

(c) Nothing in this section shall be construed to limit the ALJ or the Department head from considering any other factors that in any given case may mitigate or aggravate the offense for which penalties and assessments are imposed.

(Authority: 31 U.S.C. 3803(a)(2)(e), (f))

§ 33.32 Location of hearing.

(a) The hearing may be held—

(1) In any judicial district of the United States in which the defendant resides or transacts business;

(2) In any judicial district of the United States in which the claim or statement in issue was made; or

(3) In such other place as may be agreed upon by the defendant and the ALJ.

(b) Each party shall have the opportunity to present argument with respect to the location of the hearing.

(c) The hearing shall be held at the place and at the time ordered by the ALJ.

(Authority: 31 U.S.C. 3803(g)(4))

§ 33.33 Witnesses.

(a) Except as provided in paragraph (b) of this section, testimony at the hearing shall be given orally by witnesses under oath or affirmation.

(b) At the discretion of the ALJ, testimony may be admitted in the form of a written statement or deposition. Any such written statement must be provided to all other parties along with the last known address of such witness, in a manner which allows sufficient time for other parties to subpoena such witness for cross-examination at the hearing. Prior written statements of witnesses proposed to testify at the hearing and deposition transcripts shall be exchanged as provided in § 33.22(a).

(c) The ALJ shall exercise reasonable control over the mode and order of interrogating witnesses and presenting evidence so as to—

(1) Make the interrogation and presentation effective for the ascertainment of the truth,

(2) Avoid needless consumption of time, and

(3) Protect witnessses from harassment or undue embarrassment.

(d) The ALJ shall permit the parties to conduct such cross-examination as may be required for a full and true disclosure of the facts.

(e) At the discretion of the ALJ, a witness may be cross-examined on matters relevant to the proceeding without regard to the scope of his or her direct examination. To the extent permitted by the ALJ, cross examination on matters outside the scope of direct examination shall be conducted in the manner of direct examination and may proceed by leading questions only if the witness is a hostile witness, an adverse party, or a witnees identified with an adverse party.

(f) Upon motion of any party, the ALJ shall order witnesses excluded so that they cannot hear the testimony of other witnesses. This rule does not authorize exclusion of—

(1) A party who is an individual;

(2) In the case of a party that is not an individual, an officer or employee of the party designated by the party's representative; or

(3) An individual whose presence is shown by a party to be essential to the presentation of its case, including an individual employed by the Government enagaged in assisting the representative for the Government.

(Authority: 31 U.S.C. 3803(g)(2)(E); 3809))

§ 33.34 Evidence.

(a) The ALJ shall determine the admissibility of evidence.

(b) Except as provided herein, the ALJ shall not be bound by the Federal Rules of Evidence. However, the ALJ may apply the Federal Rules of Evidence where appropriate, *e.g.*, to exclude unreliable evidence.

(c) The ALJ shall exclude irrelevant and immaterial evidence.

(d) Although relevant, evidence may be excluded if its probative value is substantially outweighed by the danger of unfair prejudice, confusion of the issues, or by considerations of undue delay or needless presentation of cumulative evidence.

(e) Although relevant, evidence may be excluded if it is privileged under Federal law.

(f) Evidence concerning offers of compromise or settlement shall be inadmissible to the extent provided in Rule 408 of the Federal Rules of Evidence.

(g) The ALJ shall permit the parties to introduce rebuttal witnesses and evidence.

(h) All documents and other evidence offered or taken for the record shall be open to examination by all parties, unless otherwise ordered by the ALJ pursuant to § 33.24.

(Authority: 31 U.S.C. 3803(f)(g)(2)(E))

§ 33.35 The record.

(a) The hearing will be recorded and transcribed. Transcripts may be obtained following the hearing from the ALJ at a cost not to exceed the actual cost of duplication.

(Authority: 31 U.S.C. 3803(f))

(b) The transcript of testimony, exhibits and other evidence admitted at the hearing, and all papers and requests filed in the proceeding constitute the record for the decision by the ALJ and the Department head.

(c) The record may be inspected and copied (upon payment of a reasonable fee) by anyone, unless otherwise ordered by the ALJ pursuant to §33.24.

(Authority: 5 U.S.C. App. 2, 11)

§ 33.36 Post-hearing briefs.

The ALJ may require the parties to file post-hearing briefs. In any event, any party may file a post-hearing brief. The ALJ shall fix the time for filing these briefs, not to exceed 60 days from the date the parties receive the transcript of the hearing or, if applicable, the stipulated record. The briefs may be accompanied by proposed findings of fact and conclusions of law. The ALJ may permit the parties to file reply briefs.

(Authority: 31 U.S.C. 3803(g)(1)(2)(E))

§ 33.37 Initial decision.

(a) The ALJ shall issue an initial decision, based only on the record, that contains findings of fact, conclusions of law, and the amount of any penalties and assessments imposed.

(b) The findings of fact must include a finding on each of the following issues:

(1) Whether the claims or statements identified in the complaint, or any portions thereof, violate § 33.3;

(2) If the person is liable for penalties or assessments, the appropriate amount of any such penalties or assessments considering any mitigating or aggravating factors that he or she finds in the case, such as those described in § 33.31.

(c) The ALJ shall promptly serve the initial decision on all parties within 90 days after the time for submission of post-hearing briefs and reply briefs (if permitted) has expired. The ALJ shall at the same time serve all defendants with a statement describing the right of any defendant determined to be liable for a civil penalty or assessment to file a motion for reconsideration with the ALJ or a notice of appeal with the Department head. If the ALJ fails to meet the deadline contained in this paragraph, he or she shall notify the

parties of the reasons for the delay and shall set a new deadline.

(d) Unless the initial decision of the ALJ is timely appealed to the Department head, or a motion for reconsideration of the initial decision is timely filed, the initial decision shall constitute the Department head and shall be final and binding on the parties 30 days after it is issued by the ALJ.

(Authority: 31 U.S.C. 3803(h)(i))

§ 33.38 Reconsideration of initial decision.

(a) Except as provided in paragraph (d) of this section, any party may file a motion for reconsideration of the initial decision within 20 days of receipt of the initial decision. If service was made by mail, receipt is presumed to be five days from the date of mailing in the absence of contrary proof.

(b) Every motion under paragraph (a) of this section must set forth the matters claimed to have been erroneously decided and the nature of the alleged errors. The motion must be accompanied by a supporting brief.

(c) Responses to the motion are allowed only upon request to the ALJ.

(d) No party may file a motion for reconsideration of an initial decision that has been revised in response to a previous motion for reconsideration.

(e) The ALJ may dispose of a motion for reconsideration by denying it or by issuing a revised initial decision.

(f) When a motion for reconsideration is made, the time periods for appeal to the Department head contained in § 33.39, and for finality of the initial decision in § 33.37(d), shall begin on the date the ALJ issues the denial of the motion for reconsideration or a revised initial decision, as appropriate.

(Authority: 31 U.S.C. 3809)

§ 33.39 Appeal to Department head.

(a) Any defendant who has filed a timely answer and who is determined in an initial decision to be liable for a civil penalty or assessment may appeal such decision to the authority head by filing a notice of appeal with the Department head in accordance with this section.

(b)(1) No notice of appeal may be filed until the time period for filing a motion for reconsideration under § 33.38 has expired.

(2) If a motion for reconsideration is timely filed, a notice of appeal must be filed within 30 days after the ALJ denies the motion or issues a revised initial decision, whichever applies.

(3) If no motion for reconsideration is timely filed, a notice of appeal must be filed within 30 days after the ALJ issues the initial decision.

(4) The Department head may extend the initial 30-day period for an additional 30 days if the defendant files with the Department head a request for an extension within the initial 30-day period and shows good cause.

(c) If the defendant files a timely notice of appeal with the Department head, the ALJ shall forward the record of the proceeding to the Department head.

(d) A notice of appeal must be accompanied by a written brief specifying exceptions to the initial decision and reasons supporting the exceptions.

(e) The representative for the Government may file a brief in opposition to exceptions within 30 days of receiving the notice of appeal and accompanying brief.

(f) There is no right to appear personally before the Department head.

(g) There is no right to appeal any interlocutory ruling by the ALJ.

(h) In reviewing the initial decision, the Department head does not consider any objection that was not raised before the ALJ unless a demonstration is made of extraordinary circumstances causing the failure to raise the objection.

(i) If any party demonstrates to the satisfaction of the Department head that additional evidence not presented at such hearing is material and that there were reasonable grounds for the failure to present that evidence at the hearing, the Department head shall remand the matter to the ALJ for consideration of the additional evidence.

(j) The Department head affirms, reduces, reverses, compromises, remands, or settles any penalty or assessment, determined by the ALJ in any initial decision.

(Authority: 31 U.S.C. 3803(i))

(k) The Department head promptly serves each party to the appeal with a copy of the decision of the Department head. At the same time the Department head serves the defendant with a statement describing the defendant's right to seek judicial review of a decision adverse to the defendant.

(Authority: 31 U.S.C. 3803(i)(2))

(l) Unless a petition for review is filed as provided in 31 U.S.C. 3805, after a defendant has exhausted all administrative remedies under this part and within 60 days after the date on which the Department head serves the defendant with a copy of the Department head's decision, a determination that a defendant is liable under § 33.3 is final and is not subject to judicial review.

(Authority: 31 U.S.C. 3805(a)(2))

§ 33.40 Stays ordered by the Department of Justice.

If at any time the Attorney General or an Assistant Attorney General designated by the Attorney General transmits to the Department head a written finding that continuation of the administrative process described in this part with respect to a claim or statement may adversely affect any pending or potential criminal or civil action related to such claim or statement, the Department head stays the process immediately. The Department head orders the process resumed only upon receipt of the written authorization of the Attorney General.

(Authority: 31 U.S.C. 3803(b)(3))

§ 33.41 Stay pending appeal.

(a) An initial decision is stayed automatically pending disposition of a motion for reconsideration or of an appeal to the Department head.

(b) No administrative stay is available following a final decision of the Department head.

(Authority: 31 U.S.C. 3809)

§ 33.42 Judicial review.

Section 3805 of Title 31, United States Code, authorizes judicial review by an appropriate United States District Court of a final decision of the Department head imposing penalties or assessments under this part and specifies the procedures for such review.

(Authority: 31 U.S.C. 3805)

§ 33.43 Collection of civil penalties and assessments.

Sections 3806 and 3808(b) of Title 31, United States Code, authorize actions for collection of civil penalties and assessments imposed under this part and specify the procedures for such actions.

(Authority: 31 U.S.C. 3806, 3808(b))

§ 33.44 Right to administrative offset.

The amount of any penalty or assessment which has become final, or for which a judgment has been entered under § 33.42 or § 33.43, or any amount agreed upon in a compromise or settlement under § 33.46, may be collected by administrative offset under 31 U.S.C. 37.16, except that an administrative offset may not be under this subsection against a refund of an overpayment of Federal taxes, then or later owing by the United States to the defendant.

(Authority: 31 U.S.C. 3806)

§ 33.45 Deposit in Treasury of United States.

All amounts collected pursuant to this part shall be deposited as miscellaneous receipts in the Treasury of the United States, except as provided in 31 U.S.C. 3806(g).

(Authority: 31 U.S.C. 3807(b))

§ 33.46 Compromise or settlement.

(a) Parties may make offers of compromise or settlement at any time.

(Authority: 31 U.S.C. 3809)

(b) The reviewing official has the exclusive authority to compromise or settle a case under this part at any time after the date on which the reviewing official is permitted to issue a complaint and before the date on which the ALJ issues an initial decision.

(Authority: 31 U.S.C. 3803(j))

(c) The Department head has exclusive authority to compromise or settle under this part at any time after the date on which the ALJ issues an initial decision, except during the pendency of any review under § 33.42 or during the pendency of any action to collect penalties and assessments under § 33.43.

(Authority: 31 U.S.C. 3803(i)(2)(C))

(d) The Attorney General has exclusive autrhority to compromise or settle a case under this part during the pendency of any review under § 33.42 or of any action to recover penalties and assessments under 31 U.S.C. 3806.

(Authority: 31 U.S.C. 3806(f))

(e) The investigating official may recommend settlement terms to the reviewing official, the Department head, or the Attorney General, as appropriate. The reviewing official may recommend settlement terms to the Department head, or the Attorney General, as appropriate.

(Authority: 31 U.S.C. 3809)

(f) Any compromise or settlement must be in writing.

(Authority: 31 U.S.C. 3809)

§ 33.47 Limitations.

(a) The notice of hearing with respect to a claim or statement must be served in the manner specified in § 33.8 within six years after the date on which such claim or settlement is made.

(b) If the defendant fails to file a timely answer, service of a notice under § 33.10(b) is deemed a notice of hearing for purposes of this section.

(c) The statute of limitations may be extended by agreement of the parties.

(Authority: 31 U.S.C. 3808)

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